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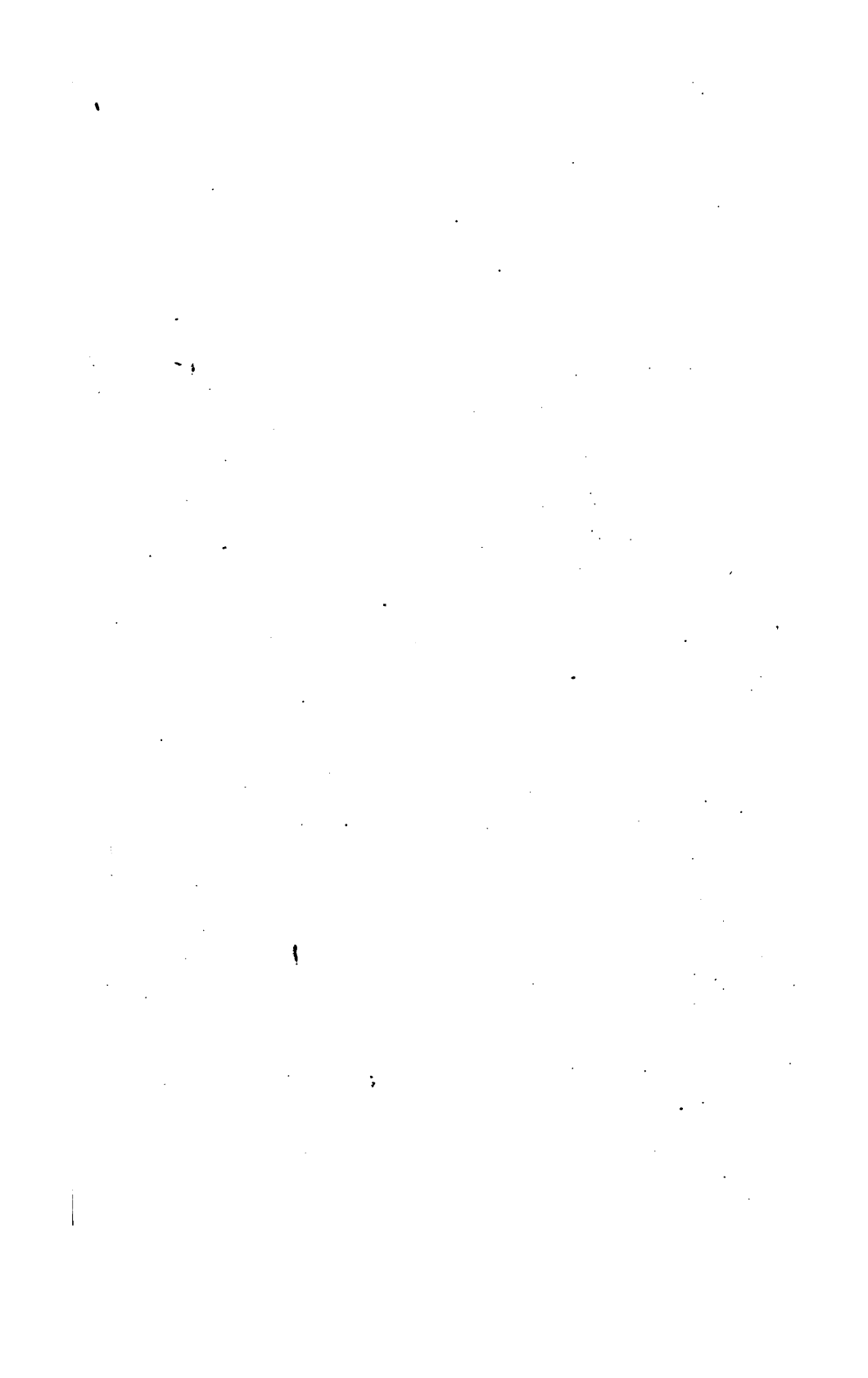


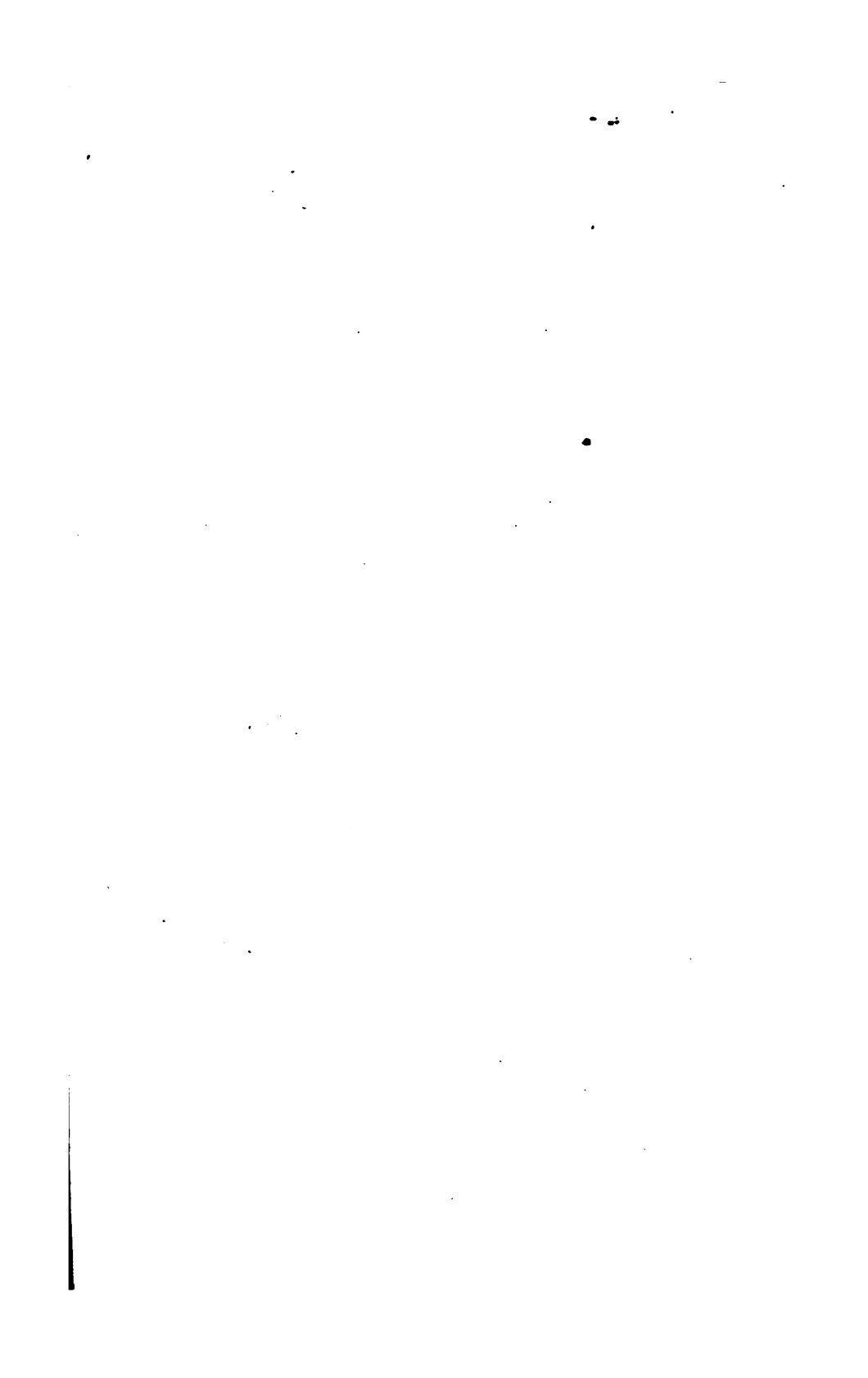


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THOUGHTS
ON
GOVERNMENT AND LEGISLATION.

By LORD WROTTESLEY, F.R.S.



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P R E F A C E.

THE following short treatise has no pretensions to originality: it is rather of an elementary character, and consists chiefly of extracts from the best modern writers on the philosophy of the Art of Government and Legislation, with a few remarks on cognate subjects, and a short sketch of the present state of this country in reference to some of the matters treated of.

The works, however, from which the principal portion of the subject-matter has been taken, are in some cases out of print and hard to be procured, and in others costly and beyond the means of many readers.

It was therefore thought that a publication of this unpretending description might possibly prove useful, not only in the higher class of schools and the Universities, but, perhaps, even to those who were looking forward to the possession of a seat in either House of Parliament.

Wrotesley, March 21st, 1859.

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GOVERNMENT AND LEGISLATION.

CHAPTER I.

OF GOVERNMENT AND ITS OBJECTS.

NO one who has attentively observed and reflected on the phenomena presented to his senses in the temporary abode assigned to him by the Great Author of his being, can have any difficulty in arriving at the conclusion that the Creator wills the happiness of all His sentient creatures.

A walk on a summer morning among rural sights and sounds will present to us at almost every step numberless beings employed in the cheerful exercise of the faculties bestowed on them; and this very exercise seems to be a never-failing source of gladness to all who partake in it. The energetic movements in which the young of all animals take such evident delight, and which by a wise provision are also rendered instrumental to growth and development, show that ~~when~~ that mysterious principle to which we give the name of "*instinct*" is left to operate uncontrolled by arti-

ficial restraints, it stimulates to those healthful enjoyments which cause life to be felt as a real blessing. Our own inward convictions lead to the conclusion that man is no exception in this general scheme of benevolence, and that happiness is our normal state, and the end for which we were created. This happiness, however, in order to be acceptable to the Author of our being, must be of that quality which He would approve.* This being premised, it is plain that all institutions which have for their object the promotion of *such* happiness are in harmony with the wishes of the Creator. In treating of these questions it is necessary to view man in his twofold capacity, as an individual, and as one of the members of a numerous society; for man is evidently a social being, and destined to live in company with his fellows. The pleasure or happiness, therefore, which he is permitted to enjoy as an individual must be such as is compatible with the existence of a similar state of enjoyment in other members of the community to which he belongs; and society must be organized accordingly.

If mankind were a community to which evil passions had no access—if men were angels—the distinctions above adverted to would have no application: there would be no disposition in any to indulge in pleasures which were inimical to the

* *Ευπραξία μετ' ἀρετῆς*. Aristot. Rhet., Lib. i., Cap. 5.

happiness of the rest. Again, there is a class of pleasures which, though they confer temporary enjoyment, have a tendency to produce greater future pain ; and this not merely to the individual himself, the subject of the enjoyment (for this would be an offence under another head, to which allusion will presently be made), but to the society of which he is a member. It is not correct, therefore, to say that institutions which promote any sort of happiness must necessarily be in harmony with the will of God.

The mode in which institutions promote happiness is by enjoining or forbidding certain actions. Some human actions are found to forward the benevolent intentions of Providence, others are adverse to them. The former should be enjoined or encouraged, the latter forbidden or discouraged. But in estimating the effect of actions it is necessary always to consider not their immediate operation only, but their *ultimate tendency* ; and if *this* be beneficent or useful, the action may be assumed to be conformable to His will ; if mischievous or pernicious, to be opposed to it.* The former, as promoting His benevolent purposes, He must be assumed to have commanded ; the latter, as

* A starving man purloins a loaf : the immediate effect is to relieve a pressing necessity ; the ultimate tendency is most injurious to the best interests of society, as impairing the security of property.

opposed to those purposes, to have prohibited. Knowing the ultimate tendencies of our actions, and the benevolent intentions of our Creator, we discern His tacit commands. The ultimate tendencies, therefore—or, in other words, the sum of the probable consequences of any human action—are an index to the will of God, and show whether that particular act is approved or condemned by Him.*

If indeed His will be expressly revealed, the foregoing remarks are inapplicable; for the whole of the argument assumes that God has not spoken, has issued no special commands, in the cases to which reference has been made.

The ultimate tendencies of many actions are very hard to discover, especially when civilization has made much progress; for then human actions are very various, and their effects are complicated, very hard to trace, and infinitely diversified: but of this we may be always sure, that those of which the ultimate tendencies are proved to be injurious to the happiness of the community, are forbidden by God. Human institutions, therefore, being intended to promote the happiness of mankind, an end agreeable to the will of God, should clearly have for their object the discouragement of all such actions, although they may confer some transient pleasure upon the actors themselves. In

* Austin, 'Province of Jurisprudence,' pp. 35 *et seq.*

the present state of the world the only effectual discouragement is generally prohibition, with a penalty for non-obedience, and this involves control of some kind or other; and we thus arrive at the conclusion that the happiness of a community cannot be secured without the exercise of control. Now, control as exercised on men living together in society is only another name for *Government*. Some kind of government must be established in order that these unions of men in society may enjoy that happiness which is their destined lot; and when established, as Lord Bacon says of law, its "*Finis et scopus non alius est, quam ut cives feliciter degant.*"

That science to which we give the name of the science of Government is a branch of that to which the name of Ethics has been applied. Ethics consists of two departments.—first, the science of Morals; and, secondly, the science of Government. "The whole difference," says Bentham,* "between politics and morals is this: the one directs the operations of governments, the other directs the proceedings of individuals; their common object is happiness. That which is politically good cannot be morally bad; unless the rules of arithmetic, which are true for great numbers, are false as respects those which are small."

* 'Principles of Morals and Legislation,' Bowring's edition of 1843, p. 12.

Now, government is exercised in many different ways, and the first great distinction to which it is necessary to advert is that which relates to the powers of those who take a part in the government. These powers may be either supreme or subordinate. The supreme power usually commands that a particular course of conduct shall be invariably observed ; and when these commands are enforced by *sanctions*, that is, penalties for non-obedience, they are called Laws. The supreme power, therefore, exercises the art of Legislation, which art is a branch of that of Government.

The subordinate powers derive their authority from the supreme, and carry into execution the commands or laws of their superior. In so doing they often issue what may be called *Ordinances*, in contradistinction to Laws properly so called.

The Parliament of this country is an example of the former kind of power ; the Executive Government, the Judges, Ambassadors, and inferior officers, of the latter.

In addition to these two sources of control, men are restrained from destroying the happiness of their fellow-men by two other descriptions of laws,—first, Those set by God, or Divine Law ; secondly, Those set by public opinion of men.

In the work of Mr. Austin, to which reference has been already made, are to be found accurate

definitions of the technical terms applicable to this branch of our subject. He classes laws under three great divisions:—

First, *Divine Laws*; these are laws set by God to human creatures.

Secondly, *Positive Laws*; that is, permanent rules of conduct, set by a sovereign person, or sovereign determinate body, to members of the independent political society wherein that person or body is sovereign or supreme.

Thirdly, *Positive Moral Rules*; that is, first, laws set by men, but not as political superiors; and, secondly, laws closely analogous to laws proper, but merely opinions or sentiments held or felt by men in regard to conduct.*

Mr. Austin uses the term "*Natural Law*" to denote a portion of both Positive Laws and Positive Morality, viz. those human rules, legal and moral, that have obtained at all times and in all places.†

The distinction between Laws properly so called and those commands to which the name of Ordinances, as a general appellation, has been given, is this, that the former either directly or tacitly enjoin or restrain *generally* acts of a particular class; whereas the latter apply to *specific* acts only, and are occasional in their nature. A direction by the supreme authority that no one shall steal on pain

* Austin, 'Province of Jurisprudence,' p. 128.

† Ibid. p. 135.

of being transported, is a law positive ; but an order by the judge that A. B., having been convicted of that crime, shall be sent to a particular penal colony, is an ordinance ; and the various subordinate officers who are employed in carrying out this sentence, are in effect executing the positive law of the supreme authority.

It will be evident at once to all that laws framed by men, however highly advanced in civilization, are likely to fall very far short of absolute perfection. The greatest happiness of the greatest number,* which has for conciseness been called "*Utility*," should be the proximate test both of positive laws and morality ; but the test or index is imperfect and uncertain : our notions of the ultimate tendencies of actions must be collected by observation and induction, and by noting the result of a multiplicity of human actions which have been imperfectly classed, and of which the effects are seldom accurately ascertained. It may be that to class them completely, and trace all their effects, transcends human powers ; but there can be no doubt that, as experience enlarges, this difficult task will be proportionately better performed, and legislative and moral rules, laws, and morality, will, with the progress of civilization, from this among other causes, receive important improvements. Human knowledge cannot embrace the whole field of

* Austin, p. 85.

human conduct; but as knowledge expands an impulse will be given to extended inquiry, and the result of that inquiry will be, that many errors in laws and morality will be gradually corrected.

Utility,* however, is only the *proximate* test of the value of a law, not the measure to which human conduct should conform, nor the test by which it should be ultimately tried; that ultimate test is the law of God. Utility is the index to the measure and the test, but it is not the source of the duty to be performed; neither is it necessarily the *motive*, which ought to determine our conduct. The good of society often requires that a man should prefer his own to others' interests, but never that he should pursue that selfish end by means inconsistent with Utility.

The law itself is the signification of a desire, by a definite rational party by words or signs to another rational party (liable to evil if he disobey), to do or forbear. The party commanded, being liable to evil if he refuse or neglect to obey, lies under a *duty* or obligation to do so, and it is that evil to which the name of sanction is given.†

The science of jurisprudence is concerned with positive law, which is its appropriate matter. Its business is to trace and expound the means adapted to a certain end; and that end, to denote it most generally, is the protection of rights. It does not

* Austin, pp. 114 *et seq.*

† Ibid., pp. 5 *et seq.*

determine what ought to be rights, or what is that distribution of power which is most conducive to the happiness of mankind.* They are properly termed jurists who study not one code merely of municipal law, that is the collection of positive laws of some one country in particular, but the principles or rationale of law-making in the abstract.

The positive moral rules included under the first of the above classes into which such rules have been divided, are of three kinds :—first, those set by men in a state of nature ; secondly, those set by sovereigns, but not as political superiors ; and, thirdly, those set by subjects as private persons, and not in pursuance of legal rights, as, *e. g.*, by parents to children.

The laws set by public opinion are improperly so called, because they are set by an indeterminate body, and are in effect their opinion in regard to a certain course of conduct. Thus international law represents the opinions current among nations.†

It has been already explained that the distinction between supreme and subordinate powers is the basis of that between legislative and executive acts : but these acts are not easily distinguished apart. Laws are often executed by other laws and commands, but on this subject it is sufficient now to remark that the two powers are

* Mill, 'Fragment on Mackintosh,' p. 141.

† Austin, pp. 143 *et seq.*

not necessarily assigned to distinct bodies. The supreme authority, for example, is often employed in issuing commands which are merely executory of others formerly propounded by itself: in other words, it frequently appears in the character of an executive, helping to carry its own laws into effect.

Sanctions then are the penalties denounced by the three classes of laws against all who refuse obedience. The penalties of the Divine law have chiefly reference to another and future state of existence. Those of positive laws are imposed by the supreme authority, and announced in the formal writing by which the law is propounded. Those by which obedience to moral law is enforced are of various kinds, and sometimes consist in the loss of character and reputation; which may be a more grievous punishment than the most severe of those imposed by the sovereign authority. Every sanction is an evil to suffer, and it would clearly be contrary to the principle of utility to impose any kind or any extent of sufferance, however small, on any of the members of a community, unless the good to be thereby obtained more than compensate for the evil inflicted. The question, therefore, whether a particular act shall or shall not be visited with a penalty, is not resolved when the conclusion is duly arrived at, that the ultimate tendency of the act itself is

adverse to utility ; for the question still remains, whether more good than evil will accrue from punishing its author.

It would be entirely inconsistent with the brevity which it is necessary to observe in discussing these matters, were an attempt to be made to explain all these subjects at length. The reader will probably, in the works of Mr. Bentham and Mr. Austin, find a solution of any doubts which he may be disposed to entertain as to the soundness of the principles here laid down. At the same time, however much one may admire and honour the talents of both the distinguished writers to whom reference has been made, and from whose works it will be necessary to borrow largely, as in no others is there to be found so clear and in general so correct a statement of the leading principles of the science of government, including in that term the art of legislation, such an admiration by no means involves an entire assent to all the doctrines promulgated by those able jurists.

Communities then are restrained by laws ; and the first great division of positive laws is formed by considering them in two principal and different points of view : first, with reference to their sources ; and, secondly, with reference to their purposes, and the subject-matter to which they relate. Now, their origin being in all cases the supreme authority

established in the community which they are framed to control, we are thus naturally led in the next place to consider the nature and constitution of these sovereign bodies.

A sovereign or supreme authority has been established wherever the majority, or at all events a very large portion of a community, have been in the constant habit of obedience to a determinate and common superior.* This is believed to be the most correct definition and surest mark of sovereignty properly so called; and it describes also the only method in which any of the existing governments can have in fact taken their rise. It seems unnecessary therefore to discuss the fiction of the original compact, which is now rejected by most of the influential jurists and political philosophers of the age. This at least is certain, that there is no warrant in history for assuming that any such primitive arrangement was the actual origin of dominion in any civilized nation; it was not even the origin or foundation of the constitution of the United States. This consideration deprives the hypothesis of all title to be designated as a fact; and it were easy to show that as a speculation it is worthless.

An independent political society has been established when the supreme authority in any

* Austin, p. 199; and see Bentham's 'Fragment on Government,' p. 263 *et seq.*

community is not in the habit of obeying any other determinate human superior. A natural society, as contradistinguished from an independent political society, is composed of persons connected indeed by mutual intercourse and so constituting a society, but not members of any such body as that which has been before designated by the latter title. In a natural society, properly so called, all are politically independent; none can be properly said to be formally subject.*

A subordinate political society is merely a limb or member of an independent political society; all the persons composing it live in a state of subjection to one and the same sovereign.

The terms "*sovereign*" and "*supreme authority*" will be used hereafter to designate that body which wields the legislative authority, and which is or ought to be, as will be shown hereafter, omnipotent in the community for which it performs that very important function. The term "*sovereign*" is often used synonymously with "*King*" and "*Monarch*," and signifies a single individual armed with greater or less powers of government, but it will never be employed in this sense.

The marks and characteristics of sovereignty and of independence above described are, doubtless, fallible and uncertain tests; but so it must ever be in social questions of degree of this nature,

* Austin, p. 207.

when the particular phenomenon described does not admit of being defined by any event capable of exact specification. It were as easy to assign exactly the period at which night ends and day begins, and when barbarism brightens into civilization, as to say whether supremacy and independence were at some given period of its history established in any community. Would it be possible, for example, to define the exact instant at which a supreme authority, answering to any proper definition that could be given of that term, was established in England after the breaking out of the Great Rebellion? but that it *was* established, that a Government *de facto*, if not *de jure*, *was* formed at some period between 1642 and 1660, cannot be denied.

It is said in our definition that a very large proportion, or the *bulk*, must obey; but it would be impossible to define the exact proportion: again, they must have been in the *habit* of obeying; but it would exceed the power of any legislature to say what extent of continuity and permanence of submission to rule should be held to satisfy that term.

It may be thought by some that the peculiar obligations imposed by the Church of Rome on such members of independent political states as are also members of her communion, create a kind of divided allegiance. There is, however, no ground for this belief; the obedience which is ren-

dered to the head of this Church, whatever might have been its nature in barbarous times, is now understood to extend to matters appertaining to religion only.

It must not, however, be imagined that the sovereign, though independent of positive laws, and therefore omnipotent in that sense, is yet independent of and above all law ; for that body is subject to a law enforced by a sanction, which, in an advanced stage of civilization, is probably one of the most powerful ; that is, the law imposed by public opinion, which it cannot habitually, or even occasionally, disobey, without entailing upon itself the most serious consequences. Again, it would be a great error to assume that, because the supreme authority as a whole is omnipotent, as a necessary consequence any, even the smallest particle, of political power belongs to any one of the constituent bodies of which it may happen to be composed, when viewed in their separate capacity ; still less to the individual members of those constituent bodies.

In this country, as is well known, three separate elements, so to speak—King, Lords, and Commons—together constitute the supreme authority ; and it is perfectly consistent with the omnipotency of these three, when acting in combination, to suppose that neither King, Lords, nor Commons, when acting separately, have a particle of political power,

or a single political privilege: but it is hardly possible to imagine a Constitution in which this supposition is literally true in fact.

The complete exposition of the meaning of the phrase, that the supreme or legislative authority, or sovereign (for the three terms are synonymous), is *omnipotent*, must be reserved for a subsequent chapter; * it is sufficient at present to say that this exalted body is independent of all law but that set to it by public opinion; that is, that no means or machinery exist or can be conceived by which a positive law, properly so called, can be framed which shall have sufficient force to bind and control the legislative proceedings, or any other act of political power, of the sovereign body.

The same difficulties which meet us at every step in our progress when we attempt to assign accurately, by verbal definition, the true nature and characteristics of sovereignty, so that we may be able at once to say, at some of the most critical and turbulent periods in the history of any given nation, whether Sovereignty did or not at those periods exist—the same difficulties are again to be encountered when we are explaining the true meaning of the phrase, “*Independent Political Society*.” It will presently be seen that the definition above contained involves terms which re-

* See Chapter III., *infra*.

quire, if not explanation, at least something to be said by way of supplement.

A society or community, to be a *political* community at all, must not fall short of a certain number, but that number cannot be precisely fixed.

It has been said that the sovereign of an *independent* political community must not be in the *habit* of obeying any determinate human superior. This qualification is necessary, because all sovereigns render occasional obedience to the dictates of that branch of Positive Moral Law which is called "International Law," a term invented by Bentham to denote that code of Positive Moral Rules by which the rights, duties, and intercourse of independent political communities are regulated.

Again, the institutions established by those various nations to which the epithet of "*civilized*" can justly be given, are so diversified in their character, and some of them are accompanied by characteristics so peculiar, that it often becomes difficult to say to what extent some of those nations, and more especially certain communities which scarcely merit that title, ought to be classed among the political societies to which the term "*Independent*" is applied.

It is fortunate, however, that these questions are seldom of much real importance; for the na-

tions of the world are very little swayed by verbal niceties of this description, in estimating the degree of weight to be assigned to any one political society in particular. An illustration of the difficulty above alluded to is presented by the Germanic constitution, which exhibits the union in a kind of confederacy of various States which are clearly for most purposes of government independent, though their destinies are liable to be materially affected, and are continually influenced, by the determinations of a kind of sovereign parliament called "the Diet," to the meetings of which each of them sends deputies to represent their interests. The object of this union is declared to be "the preservation of the external and internal security of Germany, and the independence and inviolability of the Confederated States.*" The Diet has power to establish fundamental laws for the Confederation, and organic regulations as to its foreign, military, and internal relations. It would appear, therefore, that its deliberations were to be confined to one particular species of interference, or at least have one principal end in view; and that its mission was to cause that peculiar form of constitution by which these several German States are, as it were, inseparably linked together, to be respected and maintained, and to carry out to their full development all the political consequences which flow

* See Wheaton's 'International Law,' vol. i. pp. 69 *et seq.*

from this union. This is undoubtedly its primary object; but the constitution of the Confederacy has invested the Diet with powers which do in effect enable it to exercise a considerable amount of control over the internal affairs of each particular State; to fetter, it is to be feared, materially the expression of public opinion; and, may be, to delay, if not prevent, the extension of popular rights and privileges. In case of rebellion, *e.g.*, or imminent danger of rebellion or insurrection in the several States, the Diet may interfere on the ground that such events threaten the general safety of the Confederation; and it may interfere on the application of any one State; and if the local government is prevented by the insurgents from making the application, upon the notoriety of the fact of the existence of such insurrection to suppress the same by the common force of the Confederation. In case of denial or unreasonable delay of justice by any State to its subjects or others, the aggrieved party may appeal to the Diet. The Diet may likewise guarantee a local constitution on the application of any State.

In 1832 and 1834 the power of the Diet to control the internal affairs of the separate States was increased; and not only were provisions established which have for their object the limiting the legislative privileges of the local chambers in certain cases threatening the permanence of the Con-

federation; but others were added which must necessarily exercise a very important influence on the working of the various separate constitutions. In return, and by way of recompense for being thus kept in political leading-strings, the smaller States doubtless do derive important benefits from some provisions of the Union, by which their territory and constitution are guaranteed against external and internal violence. All the States guarantee to each other the possession of their respective dominions within the Union, and engage to defend not only all Germany, but each individual State, in case of attack.

Where war is declared by the Confederation, no State can negotiate separately, but each member may contract alliances with other foreign States, provided they are not inimical to the Confederation, or the States comprising it. Again, no State can make war against another member of the Union; but all must submit their differences to the Diet.

In discussing the title of these separate German States to be considered as independent, Mr. Austin is disposed to view the deputies sent by them to the Diet in the light of ambassadors, who meet together for the purpose of deliberating upon the interests of the communities whom they represent. The measures determined upon by the Diet he considers as the evidence of an agreement, as a sort of treaty,

adopted spontaneously by each of the States represented. The various States of the Union are clearly independent for most of the purposes for which government is ordinarily instituted; but to the common machinery whereby the members of political societies are controlled, there is superadded a peculiar contrivance for the special purpose of preserving their Confederacy itself intact; and though other provisions are added, which affect in some degree the amount of power exercised by the supreme government of each separate State in regulating its internal affairs, yet those provisions do not absolve, so to speak, any of their individual members from obedience to each supreme local authority. The Constitution of the Union, however, modifies materially the nature of the intercourse of each State with independent communities outside the pale of the Confederation; yet it can scarcely be said with truth, that the respective sovereigns of the Confederate States are in the habit of obeying any determinate human superior; for the Diet can hardly be looked upon in that light, notwithstanding the recent additions to its authority; though it is necessarily sovereign in all matters subjected to its authority. The institution of the Diet differs from the measure of sending ambassadors in one very important and characteristic particular, viz., that it is a permanent institution, analogous to those which are the crea-

tures of positive laws ; whereas the latter is a measure of an executive kind.

The Swiss Confederacy consists of an union between the twenty-two cantons ; the object of which is declared to be the preservation of their freedom, independence, and security against foreign attack ; and of domestic order and tranquillity : and the several cantons guarantee to each other their respective constitutions and territorial possessions. The Union has a common army and treasury ; and the Diet consists of a deputy from each canton, each having one vote. The Diet has the exclusive power of sending ambassadors, declaring war, and concluding treaties with foreign States. It also provides for the internal and external security of the Confederation.

This case resembles that of Germany, and, where it differs, it is on the side of conceding greater independence to the separate States. It is unnecessary, therefore, to pursue it further.

Having discussed the case of Confederated States, as the Constitutions of Germany and Switzerland are termed, the next anomaly to be investigated is that of "*supreme Federal Governments*," or "*Composite States*," as they are sometimes called ; of which the Constitution of the United States is the most interesting and important example. By that Constitution, framed in 1787 by deputies from individual States, its object is declared to be,—

"To form a more perfect Union, establish justice, ensure domestic tranquillity, provide for the common welfare, and secure the blessings of liberty to the people of the United States and their posterity."

A supreme Federal Government acts not only on the several members of the Union, as in the instance of Confederated States, but *directly* on all their citizens in their individual and corporate capacities ; but a local legislature is established in each separate State, charged with the administration of its own peculiar concerns. The legislative power of the Union is vested in a Congress, or Parliament, consisting of a Senate chosen by the local legislatures, and a House of Representatives elected by the people in each State, a large proportion of whom are entitled to votes. This Congress has power to levy taxes and duties, to pay the debts, and provide for the common defence and general welfare, of the Union ; to borrow and coin money, to make regulations regarding commerce, to establish rules of naturalization, fix the standard of weights and measures, and so forth ; also to declare war, raise and support armies and navies, and make rules for their government ; to provide for the administration of justice in the district which is the seat of the Federal Government, and in all forts, arsenals, and dockyards of the Union ; and to make such laws as are neces-

sary for executing all these and all the other powers vested in the Federal Government. The executive power is vested in a President, chosen by electors appointed in each State, in such manner as the local legislature may direct. The President holds office for four years. The power of making treaties is vested exclusively in the President and Senate. The judicial power of the Union, as such, extends to all cases in law and equity arising under the Constitution, laws, and treaties of the Union, and is vested in a supreme court, which has the singular power of examining the laws passed by Congress and the local legislatures, and deciding, in cases proper for judicial determination, on the constitutional validity of such laws. No State can keep an army or navy; or enter into any compact with another State or foreign power; or engage in any war unless actually invaded. The Union guarantees to each State a republican form of government, and engages to protect it against invasion; and, on application of the legislature, or executive (when the legislature cannot be convened), against domestic violence. There are provisions by which alterations in the Constitution may be proposed, with the consent of two-thirds of the members of both Houses, and adopted when approved by the legislatures of three-fourths of the States.

The legislature of each separate State has power

to regulate such of the internal affairs of that State as are not, by the express terms of the Union, withdrawn from its jurisdiction.

Mr. Austin considers that, in cases of this description, the several united governments, together with a government common to all, viz. the Federal Government, are jointly sovereign in each society and in the Federal Union; and each of the governments which are parties to the federal compact, is, in that character, a *limb* of the sovereign body.

Mr. Austin gives the appellation of "*Half-Sovereign*" to those States which are either, first, subject, as in the government of Dependencies; secondly, Quasi-Independent, as in the Germanic and Swiss Constitutions; or, thirdly, jointly sovereign, together with some other higher authority in their own community, as in the United States.

Such a union of States as existed formerly in the case of Great Britain and Hanover is called a *personal* union; that of the different states composing the Austrian Monarchy is a *real* union. Again, the present union of Great Britain and Ireland is termed an Incorporate Union.

Tributary and Vassal States are considered as sovereign, so far as their sovereignty is not affected by this relation; and in the intercourse with foreign powers, in all cases of doubt the presumption seems always to be in favour of sovereignty, except so far as such privilege is limited by positive regulations.

It is a maxim of International Law, invariably observed, that all Independent States are equal in the eye of that law, whatever may be their relative power. Nor is the sovereignty of a State impaired by its *occasional* deference to the will of a more powerful neighbour ; or even by habitual influence exercised over its councils. It is only when this submission assumes the form of being embodied in some written compact that the privilege is injuriously affected.

CHAPTER II.

OF NATIONAL HAPPINESS.

AS the happiness of a nation is only another expression for the sum of the happiness of all who together constitute that nation, it becomes a primary object of investigation to ascertain the elements of which the happiness of each individual is composed, and to separate those which fall within our province from those which appertain to another department of knowledge, that is, the science of morals.

Now, human happiness is great in proportion as we possess whatever administers to the necessities, comforts, and enjoyments of both mind and body; but this possession must be accompanied with a conviction that it is not likely to be disturbed. A very cursory examination of the subject, however, is sufficient to show that happiness admits of a threefold division:—

First,—That which depends on circumstances beyond all human control.

Secondly,—That which depends on our own conduct. And,

Thirdly,—That which is dependent on the conduct of others towards us.

Of the first kind of happiness it is unnecessary in this place to say more than to remark that we should be on our guard against a tendency to attribute to Providence, chance, or fate, misfortunes which might by a more careful analysis be traced to the misconduct of the sufferer himself.

The second kind of happiness also is excluded from the inquiry, and falls within the province of moral science, and includes among other things all that is involved in the phrase “*having a good conscience* ;” the pleasure, for example, derived from looking back upon a well-spent life, upon a long career of useful labour, and progressive mental improvement, both moral and intellectual ; accompanied, as it sometimes is, with the gratifying reflection that a large proportion of our mental and physical comforts are due to our own persevering and successful exertions. Such reflections are undoubtedly to be ranked among the most delightful of all human enjoyments.

It is in the last division, however, of the above classification that we recognise the peculiar province of political science ; which is concerned,—first, in maintaining, and so producing a conviction of, the permanence of human enjoyment, so far as it depends for its duration on the conduct of the members of a community towards each other ; without

which conviction our happiness must be greatly impaired by the consideration of the insecure tenure on which it is held ;—and, secondly, in promoting human happiness in every way in which the sovereign authority can properly interfere.

Now, in the performance of such functions of civilized life as promote general and individual happiness, man requires to be protected from such acts of his fellow-men as interfere with their free and undisturbed exercise. Whether engaged in acquiring or distributing wealth, in gaining or imparting knowledge, in worshipping or teaching others to worship his Maker, he still requires to be protected from all outward violence and from all which militates against the efficient and proper performance of these functions ; and, in addition, it is necessary that he should be protected and maintained in the possession of all the advantages, both mental and corporeal, which he has inherited or acquired by any lawful means ; and that such others should be placed within his reach as it is competent for a benevolent and paternal government to supply, without any contravention of those sound principles of civil administration which ought to guide the counsels of an enlightened sovereign. Let us consider, then, what are the chief characteristics of a state of society in which all these conditions are duly fulfilled ;—in other words, what is it that constitutes

political happiness? What is it that adds to the blessings that can be obtained by good fortune and personal good conduct the satisfaction derived from the feeling that it is in the highest degree improbable that we shall be deprived of that which we have acquired by any delinquencies of our neighbours, and that we shall be aided in our endeavours to procure all that contributes to our intellectual and physical comfort, so far as it is proper for the supreme authority to interfere? We shall consider, in the first place, what may be termed the protective functions of the supreme authority and the laws.

Many things will immediately suggest themselves as necessary in order to attain this desirable protection; and in the first rank must be placed those laws which secure the inviolability of person, property, and character, and the maintenance of public order; but few who have not reflected much on these subjects are sensible, or would be willing to admit, how much may be obtained from one requisite only, and that is, "an enlightened public opinion brought to bear on all the transactions of society, through the agency of a free but not licentious public press." The history of the nations most advanced in civilization seems to show that there may be serious and glaring defects in a constitution of a state, in its laws both written and unwritten, in its commercial treaties and

arrangements, in the organization of its ecclesiastical, civil, and military establishments, and in its relations with foreign powers; and that all this mischief may co-exist with a very high degree of certainty that political happiness will be permanent, provided that the community have, in spite of these drawbacks, managed to attain to that stage of social progress which admits of the prevalence of such enlarged views of legal and moral rights and duties as are implied in the possession of such an instrument of human control as that just indicated.

To illustrate the truth enunciated, we may instance the cases of our own country and the United States. In England we find prevailing a system of laws in a course of progressive improvement indeed,* but very far from perfection, inaccessible, vexatiously prolix, containing many extravagant provisions—laws, too, capable of being greatly abused, and violating well-established principles of legislation. In the latter State, sprung from ourselves, we find institutions free and liberal, but of which it may be truly predicated that their tendency is to exclude men of intellectual and moral eminence from power; to encourage the

* To no one is the country under more obligations for this improvement than to Lord Brougham, who has devoted the whole of a long and most useful life to unceasing efforts to improve our laws and extend popular education.

promulgation of unsound principles of administration, propounded often for electioneering purposes only ; to cramp the wholesome action of the Executive, and impair its power of restraining offences against the State and public law ; and to keep the country in a continual ferment of political agitation, and frequently on the brink of war with foreign States. But yet, with all these defects, such is the inherent excellence of the race itself, such its capacity for government, such its respect for law and order, and steady disposition to resist everything which strikes at the root of society, and finally such is the power of public opinion, that an amount of confidence in the permanence of political happiness probably exists in both these great communities, such as was never realized in the most palmy days of the ancient republics of Greece and Rome. It is on these conservative qualities of the national character that we must mainly rely for protection against any supposed growing tendency of the popular branch of the legislature to usurp to themselves more than their due share of legislative and administrative power. Whatever theoretical objections may be urged to the constitution of the House of Lords, no true patriot will deny that some efficient check against hasty legislation and popular passions and prejudices is indispen-
sably necessary, and that those who exercise this

control should be independent alike of the Crown and the people, and not liable to be carried away by each fleeting breath of national clamour.

If the influence of an enlightened public opinion on the general happiness of a community be indeed so great, it cannot but be an inquiry of considerable interest to trace the principal causes to which its growth and maturity are to be ascribed. Now there can be little doubt that one of the causes of which we are in search is to be found in that machinery of civil administration, handed down to us from the remote times of our Anglo-Saxon progenitors, which gradually admits the subject to such a share of political power as the state of his intellectual advancement will justify. The provisions for that purpose may be rude and imperfect, but if they are adapted to the age, and are complete in at least one particular, they may fulfil the desired end; that is, if they are calculated to instil gradually into the members of the community, and keep alive, true and equitable principles of civil government and legislation. Not to mention the old Saxon provisions for the maintenance of order, it must be admitted that the institutions of County Courts and Courts Baron, of Municipal Corporations and Juries, not only prepared our rude ancestors for the more arduous task of legislators and administrators, but, by leading them to consider and discuss questions of legal

and political science, created by degrees an enlightened public opinion, of which, in the course of time, men who possessed the necessary literary qualifications became the expounders. Now, when printing had been invented, a greater number of men qualified by their information and intelligence to exercise an important influence on the opinions of the community began to write, and gradually obtained such an extension of the licence to print and publish as was calculated to give to their writings a circulation as extensive as the limited demand of those days required ; and when the public had begun to read and relish discussions relating to the characters of men and measures, such writers were enabled to inflict a much more effective punishment on men intrusted with power which they abused, than could be imposed through the instrumentality of the tardy and often expensive forms of judicial procedure,—and a punishment greater in proportion as the number of readers increased and knowledge was more generally spread abroad. Their lash also had the merit of reaching offenders who were protected by privilege, aristocratic connection and influence, or otherwise, from the jurisdiction of the ordinary courts.

These considerations are so obvious that it is unnecessary further to expatiate upon them, and may be an apology is due to those who have reflected deeply on the circumstances to which the

extraordinary success and almost uninterrupted prosperity of the Anglo-Saxon race are due, for enlarging so much on topics which must be so familiar to their thoughts; but the truth is, that few persons form a due estimate of the present force of the moral sanction, and perceive to what an extent it might, if necessary, supersede others, and does, in fact, render harmless much that is still faulty in our various institutions, which are gradually adapting themselves to the necessities of modern civilization. Mr. Austin observes, in reference to this subject, that where the bulk of the community are duly informed, the nature of the government is of comparatively little consequence,—when not informed, of the highest importance.* Undoubtedly, like all other things, the press is an engine capable of great abuse, and unquestionably is often abused; but this consideration must never induce us to shut our eyes for a moment to the manifold advantages which we daily and hourly derive from the legitimate exercise of its beneficent functions.

Almost all the characteristics of such a condition of society as shall secure, as far as human institutions can secure, the permanent duration of what has been termed “political happiness,” may be summed up in the two articles, “Security of Person,” and “Security of Property,” provided

* Austin, pp. 301 *et seq.*

these terms are used in the extensive sense which ought to be given to them in these inquiries. Under the term "Security of Person," for example, it is intended to include the protection from every act which unjustly impairs, or has a tendency to impair, our physical, moral, or intellectual happiness. Again, in "Security of Property" is included protection from every act which unjustly disturbs, or has a tendency to disturb, the acquisition, possession, or enjoyment of wealth or property, taken in the largest sense of which the words are capable. It will be seen therefore that the first head includes all unnecessary and unlawful restraints upon personal *liberty*. Unlimited liberty would be clearly irreconcilable with security of any kind. The problem to solve is to discover the minimum of interference that can coexist with complete protection and social order. Archdeacon Paley defines liberty as it ought to be, and Mr. Austin as it is.* By the definition of the former, it consists in the not being restrained by any law but what conduces in a greater degree to the public welfare. Mr. Austin views it as it exists in fact, viz. as "the freedom from legal obligation left or granted by the Sovereign to the subject;" and he considers it as valuable only so far as it conduces to *utility*,† and as fostered by the legal restraints to which the fanatics of political agitation

* Austin, p. 279.

† Ibid. p. 288.

are so averse.* On this subject Mr. John Stuart Mill has lately published an interesting and instructive essay. He states the following as the maxims which form his doctrine:†—

First. That the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself.

Secondly. That for such actions as are prejudicial to the interests of others the individual is accountable, and may be subjected either to social or to legal punishments, if society is of opinion that the one or the other is requisite for its protection.

Some may be of opinion that Mr. Mill carries his views as to absolute freedom of thought and discussion, and toleration of eccentricity of conduct, to a dangerous extent; but, however this may be, the last two chapters of the work in question deserve the serious consideration of the political student, and the whole will amply repay an attentive perusal.

In addition to a guarantee from all direct violations of the security of the *body*, arising from the wrongful acts of either domestic or foreign ill-doers, security of the *Person*, as it has been defined above, includes likewise protection from all acts which injuriously disturb the equanimity of the *mind*—*security of reputation*, for example, and *freedom of conscience*. For what happiness can be

* Austin, p. 290.

† See Mill 'On Liberty,' p. 168-9.

enjoyed by those who are subjected to slanderous attacks upon their actions or motives? or what pleasure can be felt in existence by a conscientious man, when the sovereign attempts to compel him, by penalties or disabilities, to adopt a course of conduct opposed to his convictions; or to induce him to conceal or abandon opinions of which he believes he has just reason to be proud? In former times Governments acted as if they were of opinion that matters of faith were entirely within our own control, and that incredulity was only the result of obstinacy: condign punishment therefore, they argued, ought to be inflicted on all who did not attain to the then existing national standard of belief in both religious and political questions.* They carried their folly to the extent of imagining that no offices, ecclesiastical, civil, or military, could be duly filled, or their duties properly performed, by men who did not attain to this full measure of belief, or credulity as it might in some cases be more fitly denominated. Hence arose that dreadful scourge of mankind, that fruitful source of human misery and of hypocrisy and crime, the practice of requiring tests and oaths to be taken as a condition precedent to the obtaining of certain temporal advantages.

* Die arme Frau ist eine von den Schwärmerinnen, die den allgemeinen einzig wahren Weg nach Gott zu wissen wähnen, &c.—*Lessing*.

Under the foregoing definition of security of property is included the removal of all such imperfections in our habits and institutions as render wealth more difficult to acquire and retain ; of all shortcomings in our civil and military police, and in the means provided for ascertaining rights and duties and redressing injuries ; of all defects in economical arrangements, whereby we are prevented from selling commodities in the dearest and buying them in the cheapest market ; of all excessive and unequal taxation ; of all defects in our laws, whereby our interest in real and personal property is rendered less secure, or whereby we are prevented from transferring or dealing with such property at the smallest cost consistent with protection against loss, or whereby the effects of insolvents are rendered less available to creditors : for these blemishes in our laws and customs either retard the acquisition of wealth, or have a tendency to compel us to part with possessions which we should otherwise have been enabled to retain ; and when this is the case, and it is brought about by the instrumentality of institutions which are contrary to utility, the community can hardly be said to be in that state which constitutes the perfection of political happiness.

Then, again, there can be no perfect security for person or property, in the wide sense which has been given to the terms, without a wholesome

state of relations both with our own colonies and dependencies, and with foreign powers: there must be a guarantee that nothing is likely to occur, arising out of any imperfection in these relations, which will impair our physical or moral happiness, prevent our acquiring or deprive us of possessions, or impair our enjoyment of them in any of the various ways before-mentioned. To sum up the whole, therefore, we find that it is possible for a great amount of political happiness to coexist with very defective laws and institutions, provided that society, owing probably to its own inherent capacity for government, be sufficiently advanced for the development of an enlightened public opinion, of which a free but not licentious press is the exponent. Civilization may possibly, in very advanced communities, and in some future and more happy age, attain to such a degree of maturity, that it shall be nearly immaterial what laws and institutions may prevail in the State, inasmuch as the restraint imposed by public opinion may be a sufficient substitute for any which could by possibility be imposed by law. In the absence, however, of that safeguard of order and civilization, and before society has reached that condition when it becomes attainable, it is necessary, in order that a state of political happiness may be predicated of any given community, that security of person and property should be

therein established by other means, and that in a very extended sense of those terms. It would appear from the foregoing considerations that such security can hardly be attained, at least until public opinion has arrived at its full development, without the following provisions for controlling and keeping in check the evil-disposed:—

First. A Constitution moderately well fitted to the peculiar requirements of the people to be governed.

Secondly. Such laws, customs, and institutions, in reference to internal and commercial economy, as shall secure (amongst other things) the due administration of civil and criminal justice, and afford a guarantee for the maintenance of the rights of person and property. And

Thirdly. Such relations with our own dependencies and with foreign communities as shall leave trade undisturbed, inspire mutual respect and confidence, and secure, as far as possible, freedom from external aggression.

We proceed to the second division of the subject of this chapter, viz. the consideration of the provisions which may be necessary for the purpose of imparting to the community all such additional benefits, tending to make their happiness more complete, as it may be within the proper province of an executive or legislative body to supply.

The extent to which a government ought to

interfere in the concerns of its subjects has of late been much discussed, and some valuable remarks on this head of political science will be found in the last book of Mr. John Stuart Mill's masterly treatise on 'Political Economy;' but it is impossible to enter into detail on so extensive a subject. In the first place, all those desiderata of society which are generally admitted to require the intervention of the supreme authority in some shape or other, may be at once dismissed; such as the means to be adopted for obtaining a public revenue, and for establishing an adequate civil and military police. There remain those cases in which the interference of the sovereign may be said to be optional, and it behoves us to consider what are the principles which ought to determine the propriety of such interference. Mr. Mill observes: *—"Even if the Government could comprehend within itself in each department all the most eminent intellectual capacity and active talent of the nation, it would not be the less desirable that the conduct of a large portion of the affairs of society should be left in the hands of the persons immediately interested in them. The business of life is an essential part of the practical education of a people; without which book and school instruction, though most necessary and salutary, does not suffice to qualify them

* Mill's 'Political Economy,' edition 1848, vol. ii. pp. 513 *et seq.*

for conduct and for the adaptation of means to ends. Instruction is only one of the desiderata of mental improvement; another, almost as indispensable, is a vigorous exercise of the active energies, labour, contrivance, judgment, self-control; and the natural stimulus to these is the difficulties of life." Again: "*Laisser-faire* should be the general practice: every departure from it, unless required by some great good, is a certain evil." Mr. Mill proceeds to detail some of the departures from the general practice which he seems to consider justifiable; he observes:—"But if the workman is generally the best selector of means, can it be affirmed, with the same universality, that the consumer, or person served, is the most competent judge of the end? Is the buyer always qualified to judge of the commodity? If not, the presumption in favour of the competition of the market does not apply to the case; and if the commodity be one in the quality of which society has much at stake, the balance of advantages may be in favour of some mode or degree of intervention by the authorized representatives of the collective interest of the State." These remarks, though expressed in the technical language of economists, shadow forth very clearly the true guiding principle of all these exceptions, which may be thus stated:—The supreme authority may intervene in cases in which the

subjects of the interference are incompetent judges of the kind and quality of the benefits proposed to be conferred, and of the necessity for imparting them, either at all, or at least to the extent deemed requisite by the sovereign; then the true interests of society are not only promoted by the boon, but may occasionally be seriously injured by its being withheld. The cases to which this principle will apply will generally be found to be of two kinds,—first, where the subjects in question are under some peculiar physical or intellectual disability; and secondly, where the supreme authority is superior in intelligence to the great mass of the community which it governs. The most remarkable example which can be adduced of a case which completely falls within the foregoing definition is that where the commodity to be supplied is education, or mental cultivation, of which it may be truly affirmed that by none is it likely to be worse appreciated, or less kindly welcomed, than by those who are nearly or entirely destitute of the advantages which it seeks to confer; by none also will its nature and quality be less understood; while no reflecting person can doubt that society at large has the deepest interest, not only in imparting this benefit to all, but in seeing that it shall be of a quality calculated to realize to the full extent all the beneficial results which should

flow from the gift. On the other hand, the evils consequent upon its being of an indifferent quality, or wholly withheld, or conceded in small and insufficient quantities, are vast and portentous. Education, when the term is used in its largest sense, as comprising all forms of intellectual cultivation, not only involves the whole circle of moral, religious, and secular instruction and training, but also that more practical mental discipline, acquired in the busy arena of life, to which reference has been already made. It is unnecessary, however, to treat of it in its latter acceptance, for it will be at once perceived that such happiness as may result from this species of training is more peculiarly due to our own conduct, and does not need the interference, but rather the non-interference, of others. In the instance then of mental cultivation, those who have it not can form but a very imperfect estimate of its value. To a man engrossed by sensual pleasures, assailed by manifold temptations, a prey to numerous vices, which, in the words of Bishop Butler, surround their victim like harpies craving for their customary gratification, grovelling in the lowest abyss of moral degradation; in such a man there can be few, if any, aspirations for the pure pleasures of intelligence. That which he does not comprehend and cannot appreciate, he will not seek; and this is true not only in the

extreme case which has been put, but in the case of all adults who are devoid of intellectual training. Infants again are unable from physical inability to comprehend the importance of mental culture ; yet who can doubt that it greatly concerns the welfare of the State that this benefit, which will in the great majority of instances not be sought after, should be bestowed, and that freely and without stint? It deeply concerns the public weal that men should be taught to reverence their Maker, should believe in a state of future rewards and punishments, and should learn their duty to God and their neighbour, and the use of those material signs which are the key by which the whole treasury of knowledge is unlocked. These are the *elements* of education only, but they are great preservatives against crime, and means for the attainment of most important ends. Yet highly civilized communities have continued for many generations, and still continue, to spend far larger sums in the punishment of wrong-doers than would suffice to bestow that culture which would save many an unfortunate victim from a doom unmerited so far that a more enlightened policy might have preserved him from it. The interests of society, however, demand more than this ; they require not only that "chill penury shall not repress" any noble aspirations for intellectual advancement, which are perhaps not wholly unfelt by the most

degraded of our species, but, as to a great majority at least, that "science should to them unroll her ample page."

There is a wide distinction between such an education as that which is shadowed forth in the last paragraph and that which was spoken of above. There but the rudiments of mental cultivation were specified, but these it must be remembered are instruments by which, with the aid of great perseverance, important ends may be achieved; and the more liberal the institutions of any country may be, the greater is the value in comparison of these more humble acquirements. Since the adoption in this country of that great and wise measure, the opening of public situations to those who approve themselves worthy at public examinations, this whole question has assumed a new character; and a stimulus to mental cultivation has been provided which cannot fail to bear important fruits hereafter.

Of the three heads under which education may be considered, viz., as religious, moral, and secular, it is not intended to dilate at any length on any of the three. With reference to the first; in this country the sense of its vast importance, and the feeling which pervades a large portion of the community, that without it all other education would be comparatively of little value, have hitherto prevented its complete separation in practice from the

second and third, and presented an insurmountable obstacle to the formation of public educational establishments, at which either secular instruction alone shall be given, or secular instruction accompanied with such religious and moral teaching only as all sects agree in considering as proper and necessary. No one, it may be, would advocate this course if there were happily a general agreement on religious questions among all members of the community ; but as this is not likely ever to exist, it must be admitted that the combination in all cases of religious with other teaching renders it impossible to introduce any system of education into the country which can properly be termed general, and has hitherto greatly retarded the diffusion of knowledge. It is on this ground that many contend that religious instruction should be given either at home, or in separate schools, as shall be preferred, under such stringent conditions as will render it imperative. However much one may be disposed to concur in the abstract justice of these views, it cannot be denied that they are opposed to the sentiments of a very influential and deservedly respected portion of the community, and have little chance of obtaining favour.

We proceed to consider in what way the supreme authority should execute that portion of its duties which consists in imparting what we have termed "secular" instruction, to distinguish

it from that which is properly termed religious and moral. We must omit, however, all notice of the machinery by which this operation is to be effected, and of the cases of those more fortunate members of society whose private means are sufficient to enable them to provide amply for their own intellectual improvement. Supposing, then, that the rudiments of knowledge have been already taught, according to the best system known, to one who may be properly described as belonging either to the class of labourers or artizans, the first difficulty which meets us on attempting to extend this small modicum of knowledge, arises from the circumstance that the parents of the child have now become anxious that he should apply himself to manual labour, in order that the profits may be employed in his and their support; and the only way of meeting the difficulty is by the opening of schools, or educational establishments, on the days or at the hours when no manual labour is required from the student. Such establishments might be open both to infants and to adults, and might be held on Sundays and holidays, and in the evenings after the hours of labour are over. But, unhappily, there are at present in this country very few institutions competent to undertake the task of completing that instruction which primary educational establishments have only commenced. We have Sunday schools and mechanics' institutes; the

former, as applied to infants, may be useful as a *supplement* to the ordinary school teaching; as applied to adults who have already laid a foundation in other schools, they may be very useful, and it is to be regretted that they are so few in number. With respect to mechanics' institutes, it would be unjust to deny that they have done some good service in the improvement of the working classes; but true friends to the advancement of that portion of our fellow-subjects deplore the tendency of some of these institutions to degenerate into mere lounging-places for reading the periodical literature of the day, and listening to lectures, often by incompetent persons, on a vast variety of subjects, some of them of little or scarcely any importance, and changed continually; to the exclusion of that continuous and more systematic form of mental culture for adult artizans which prevails in some continental institutions, but which is comparatively unknown in this country outside the walls of our national universities. Some attempts have, however, been lately made to remedy this state of things. The Society of Arts has endeavoured to improve the instruction given in mechanics' institutes; Working Men's Colleges have been established in some towns, at which systematic teaching is carried on. Still, the efforts of Government should be directed to the encouragement of institutions resembling the "Gymnasia,"

as they are termed, in Germany, at which young men, upon leaving the rudimentary schools, receive systematic instruction in ancient and modern languages, and in the elements of the sciences. It would doubtless greatly promote the extension of sound knowledge among the class of operatives, if the Government were only to aid local exertions directed towards the organization of educational establishments of this description, to which young men might be sent, either in the interval between leaving school and entering upon their practical pursuits, or in the evenings and at leisure hours snatched from the labour of their daily avocations. Some of the students would probably proceed no further than to master elementary knowledge; but others more persevering would aim at higher objects, and perhaps obtain such an amount of information as would enable them to rise far above the sphere of life in which their lot was originally cast. Such institutions as are above described would be a valuable boon; but a Government which had the interests of its subjects sincerely at heart would not be satisfied with that only. It would assist local efforts to establish libraries and museums in the chief provincial towns, to which all should, under proper precautions, be allowed unlimited access, and, in the case of libraries, the liberty of taking to their homes a certain portion of the books. Public lectures also should be deli-

vered to students who had, by attendance at the proposed Gymnasia, or similar institutions, acquired sufficient knowledge of the laws and principles of science to profit thereby. Nor should this mode of instruction, viz. by the delivery of lectures, be altogether withheld from those who had not been able to avail themselves of these advantages; but this should be ever borne in mind, that no scientific teaching is likely to be of much advantage in after life which stops short of a thorough mastery of the more important principles of abstract science, and some of their more obvious applications; and, therefore, no system of instruction should be encouraged by the State which does not keep this object steadily in view: at the same time, there will be always, even in an advanced stage of society, a large proportion of the community who, from a variety of causes, will be unable to avail themselves of any such public provisions for continuous and systematic teaching as those last described; and popular lectures and museums, libraries and mechanics' institutes, may not be without their use in furnishing such persons as these with the means of acquiring some knowledge at a small cost of time and labour; and it is well known that a very small amount of study, a mere introduction only into the vestibule of science, is sometimes sufficient to awaken curiosity in an intelligent mind and to stimulate to greater pro-

gress. Let us picture to ourselves, for example, the effect upon the mind of a mechanic naturally acute and inquiring, of a first visit to the British Museum, particularly if he should be fortunate enough to be accompanied by a well-informed companion, competent to explain some of its contents, at least so far as to excite interest. He may be thus induced to attend a regular course of lectures at the Institution in Jermyn-street; and, his curiosity being thoroughly aroused, he may gradually advance, until he at last becomes painfully conscious that until he has mastered the elements of the mathematics and certain scientific principles his course will be arrested at a certain point. If he have perseverance, leisure, and means, and moral worth, and resolve to conquer, the future of such a person in a country like England, where the great prizes of fortune are open to all, is no longer doubtful; he will ascend many steps on the ladder of society, and have ample cause for gratitude to those who placed such resources at his disposal, and for respecting the institutions which enabled him to turn them to account. In contemplating such a pleasing picture of successful exertion, it is impossible not to lament that so many untoward circumstances concur in our own country to render its realization so much less frequent than it ought to be. Among the many drawbacks which have a tendency to neutralize

the advantages derivable from our free institutions, the most serious are, the habit of too early and imprudent marriages; the ruinous consequences of strikes for wages; and the unhappy prevalence of the taste for dram-drinking, which has been fostered by pernicious legislation, and by which the natural influence of the motives to save is so materially frustrated: other mischievous results also flow from the ignorance which prevails of the first principles of economical science. We may safely prognosticate that, in proportion as the spread of education and the growth of civilization remove these obstructions to the advance of the working classes in the social scale, so will national happiness augment and abound, and our posterity be at length gratified by the sight of a well-educated, well-ordered, and intelligent population, justly proud of their country and its institutions.

If it be true, and it can hardly be denied, that it is greatly for the benefit of the community that a knowledge of science should be extended, it is no less true that "inducements should be held out to students to acquire it, and, after the period of pupilage has expired, to extend their knowledge and turn it to useful account."

The duty of the Government, of Parliament, and the Universities, in this behalf, has been elsewhere discussed at length,* and the arguments need not

* See Report of the Parliamentary Committee of the Bri-

therefore be repeated. In making the foregoing remarks and referring to those contained in other publications, it is not intended to suggest that Government aid should be confined to one portion of secular instruction only, *i. e.* the teaching of science, if, on consideration of the requirements of society, it should be thought expedient to give aid towards the acquisition of other branches of knowledge also; but it was thought better to select science as an example, because it can hardly be disputed that to a person in that station of life to which our remarks are chiefly confined, its study is likely to prove more useful in his subsequent career, than that of any other branch of secular knowledge to which he can turn his attention during his few leisure hours. Very liberal provision is now made for instruction in practical art; and much encouragement has been afforded to those who are proficient therein by the building of the new Houses of Parliament; while abstract science, "the very living principle and soul of the industrial arts,"* has been comparatively neglected.

It is hardly necessary to prove the proposition above enunciated, that "it is greatly for the benefit

tish Association to the Meeting of that Association held at Glasgow in September, 1855; and Resolutions of the President and Council of the Royal Society of London, 1857. Parliamentary Paper, No. 63, of the Session of 1857.—House of Lords.

* 'North British Review' for November, 1855, p. 265.

of the community that a knowledge of science should be extended ;" but if there be any one in any given society who now doubts its truth, a more general diffusion of knowledge will speedily dispel those doubts, and future ages will treat the statement as an axiom. If however there should be found, and there doubtless will be found in every country, some who will controvert it, those sceptics certainly ought not to be found among the members of the Executive or Legislative bodies ; and if such there be in these high places, it may well be doubted whether such counsellors are provided with the necessary qualifications for guiding the destinies of a nation which owes a large proportion of its greatness to the applications of science to works of art. In truth, this case of science is just one of those which should fall within the second division of the instances in which the Government ought to intervene, viz. the cases in which it may be supposed to be wiser than the mass of its subjects ; and there can be no doubt that many of the measures which ought to be adopted for the advancement of science, and which depend upon Government or Legislative aid for being effectually carried out, are of a nature not likely to be duly appreciated by a large proportion of the community. And here a question arises, a difficult and delicate problem to solve, viz., to what extent it may be prudent in a Government to proceed in

advance of the age and nation ; but we may be sure that, if no risks of this nature are encountered, the intellectual growth of society must of necessity be comparatively slow and tedious.

There are many other subjects mentioned in the work to which reference has been already made in which Government may lawfully interfere, such as, *e.g.*, the protection of infants and lunatics, a public provision for the relief of the destitute, and so forth ; but it would be improper to pursue the discussion further ; it is enough to have established the position, that the supreme authority in a state should assist and reward, as well as coerce and punish.

CHAPTER III.

OF THE RATIONALE OF GOVERNMENT.

THE elements of which national happiness is composed have been described, and the question now arises as to the means to be adopted by independent communities for the purpose of obtaining the various benefits which together constitute such happiness.

Now, however great may be the advantages possessed by any particular race or nation, in having been endowed with a natural capacity for self-government, it is clear that, commencing from any given epoch in the progress of civilization, the utmost possible amount of national happiness will be more easily and quickly attained in societies in which good institutions have taken firm root; but before any reply can be given to the question, In what does the *goodness* of political institutions consist? there are difficulties which meet us at the very threshold of the inquiry. Admitting that the meaning of the epithet *good* has been accurately defined, are institutions which are confessedly good at one time and in one place, necessarily so at all times and in all places? in

other words, is it goodness in the abstract, or with reference to some particular period or locality, that we are in search of? Now, as to this point, the experience of history seems to show that Constitutions will rarely bear transplanting; that which flourishes in one locality often languishes in another; and however fruitful the plant may be when growing in its own soil, it by no means follows that disastrous consequences may not result from its sudden transference to some ungenial site.

It will be convenient, however, to postpone the discussion of the effect of time and place in rendering modifications of institutions necessary; for much preliminary consideration of the general subject is necessary to enable us to estimate accurately the value of nice distinctions, of the kind to which we have adverted. If it be true that no institutions can be viewed as either good or bad in the abstract, and the peculiar characteristics of the community in which they are to be introduced, or in which they are already established, should always be taken into account, it is clear, that, in predicating of any particular law or custom that it is beneficial or calculated to secure happiness, we should be understood as referring to some average or normal condition of society, and as implying that there may be qualifications with which this expression must be taken if certain

conditions be materially altered. This being premised and duly borne in mind, the means are to be considered by which the benefits shadowed forth in the last chapter are to be secured, so far as they are dependent on positive regulations; and in saying that this can only be accomplished by good institutions, it is meant of course to confine the term to such as are calculated to effect those objects. The term "institutions" may be said to comprise the whole of the municipal laws of any State, but in common parlance it is generally confined to the organization of its executive Government and the functionaries dependent upon it, and of its Senate and Representative Assembly, where such bodies exist. Governments have been commonly divided into, first, monarchies; secondly, aristocracies or oligarchies; and thirdly, republics. Of monarchies there are two great divisions, viz., first, absolute, and secondly, mixed or limited monarchy. Mr. Austin, in the treatise* so often referred to, has some very pertinent remarks on the impropriety of this last appellation, and observes, by way of illustration of his remark, that the King of England is most improperly so styled; for a monarch cannot *ex vi termini* be subject, as that king undoubtedly is, to the sovereign body; and he adds that, if the English Sovereign had equal power with that which he now possesses, and were

* Austin, 'Province,' &c., p. 233.

styled *Protector*, our English form of government, which is more properly a mixed Aristocracy, would be called a Republic. Thus is the peace of the world disturbed by fools for the sake of a name.*

There is one general remark which may properly precede all discussions as to the policy of adopting this or that kind of government; and that is, that the mere form is of much less real importance than superficial observers or political zealots, not to say fanatics, are willing to believe. On this subject Sir George C. Lewis observes, in the preface to his 'Treatise on the Government of Dependencies,'—"Whatever advantages may belong severally to monarchical, aristocratical, or democratical institutions, it cannot be overlooked that the chief nations of Europe and America now [1841] keep nearly abreast in the march of civilization, notwithstanding the diversity in the forms of their supreme government. Moreover, it can scarcely be denied that the ulterior progress of these nations mainly depends upon the nature of the opinions prevailing among the bulk of the people; that, where public opinion is unenlightened, no political forms can be an effectual security against unwise and mischievous exercises of the power of Government; and that, where the public opinion is enlightened, political forms lose a large portion of their meaning and importance."†

* Austin, *ibid.* † Lewis, *Essay, &c.*, Preface, p. viii.

Again, Mr. Austin observes that the best moral security for good government, and therefore for national happiness so far as it be dependent thereon, is not *oaths*, but a wide diffusion of the soundest political science.*

It may seem to some that the importance of the state of public opinion, as affecting and modifying all our conclusions on matters connected with political science, has been too much insisted on; but the truth is, that its influence is generally underrated by historians and speculative writers on political subjects. Thus the absolute monarchies of the continent are sometimes spoken of as if the sovereign were really despotic, in the sense in which certain governments were supposed to be in times long past, and happily not likely soon to return; *i. e.* as if he or they had an absolute command over the lives and fortunes of the subjects. Now, not only is this not true of any existing known government of a really civilized State, but it may be reasonably doubted whether there ever existed a State in which the supreme authority, whether a Monarch, an Aristocracy, or a Democratical representative assembly, or a combination of some or all of these forms of government, was absolute in the foregoing sense, and able to carry out the dictates of its own will without any consideration of the state of public opinion. If there

* Austin, 'Province,' &c., p. 353.

be any exception to the generality of the above statement, it must be sought for among Oriental despotisms, some of which have little claim to the title of "civilized communities." Some of the Roman Emperors may seem to have been an exception; but, in addition to their subservience to the Prætorian guards, there were doubtless certain acts which even the most ruthless of imperial tyrants would have thought it rash to commit. However servile and prostrate a nation may seem to be, it is perhaps always liable to be aroused from slumber by some apparently trivial cause, a something which grates against national prejudices, oftentimes dearer to the humbler classes of the population than life itself; nay, more liable perhaps in proportion to its rudeness and ignorance. History records many such outbreaks; and the calamities resulting from them have, due allowance being made for national character, generally been great in proportion as the darkness in which the nation was at the time involved was more or less profound.

When a wholesome state of public opinion and the diffusion of sound political science are spoken of as *causes* productive of most valuable results to the community, it must not be forgotten that they are also usually the *effects* of a long course of good government. This is one of the many examples in human affairs in which a result is by slow de-

grees brought about which would seem to be well nigh impossible without the existence of conditions which appear themselves to a great extent dependent for their existence on the prior establishment of the result itself. A sound public opinion seems to be a consequence of good government, yet good government can hardly exist except it be preceded and accompanied by a sound public opinion. In the early stages of society, injuries to life and property from lawless violence would generate a desire for and love of order, greater in proportion to the innate capacity for government of the race in question ; a yearning for order would lead to the establishment of a rude kind of government, which in proportion as it improved would become more popular, and, with its increased popularity, public opinion would become more sound : thus the growth of these political blessings would be slow but simultaneous, and during their whole progress towards maturity they would act and react beneficially on one another. There are many examples of this confusion of cause and effect, and of data and results founded on them, in the moral, social, and even more exact sciences. Data are used to obtain results, and then the results serve to rectify the data employed ; with such improved data better results are again obtained. Thus in astronomy we have to rely on approximations for the purpose of obtaining results which are required

for enabling the approximations themselves to take rank among accurate determinations. A mode of effecting this by means of what are termed equations of condition, several of which derived from the observations are used to ascertain the most probable value of the various elements employed, and thus to correct them, is a beautiful example of the useful application of the higher branches of analysis.

From the first revival of human knowledge after the sun of civilization had set, it has been slowly progressive. All honour to those who have contributed to raise their species from the abyss of darkness into which the destruction of the Roman domination plunged all mankind! Let those who cannot suppress a sigh when they reflect how much has yet to be accomplished, take heart again on remembering how much has been done.

The comparative advantages and disadvantages of an absolute monarchy and a constitutional sovereignty are too well known and familiar to make it necessary to dilate upon them. It is a trite but true observation, that the interests of the subject many would be promoted by intrusting any amount of power, however great, to a single person for whose goodness and sincere desire to promote the happiness of the greatest number we had effectual guarantees. But as such a warranty is not possible, Constitutions, speaking generally,

must be framed with reference to the ordinary and normal character of the species. This is not the place to discuss any of the details of a Constitution; suffice it to observe that in all communities, whatever may be the form of the actual sovereignty, certain provisions are essential to well-being and even safety. There must be a supreme power, and executive, judicial, and legislative authority; there must be clergy, and a civil and military police. If the country in question possess dependencies, institutions must be provided for them with such variations from those of the parent State as local circumstances dictate; and throughout the whole extent of the territories subject to the dominion of the sovereign power, provision must be made for the administration of equal justice both to rich and poor. All these regulations are essentials, and the object of all is the control of those evil passions inherent in our species, which if allowed to run riot would possess themselves of the accumulations of industry, and by rendering property insecure destroy civilization and all the benefits which follow in its train. Let man be only perfectly protected from violence both internal and external, and the natural operation of the motive of self-interest will put him by degrees in possession of much of the happiness which a well-ordered condition of society is calculated to confer.

Now, men are restrained from indulging their natural passions at the expense of their neighbours by a fear of punishment; and punishment is of four distinct kinds,—first, a punishment by God; secondly, by the law; thirdly, by public exposure; and fourthly, by physical injury. These are termed the religious, political, moral, and physical sanctions. The second alone is the subject of positive law. Under the first sanction men are restrained by the fear of being punished for their misconduct by the Supreme Being. The third sanction imposes the wholesome dread of loss of reputation; a penalty infinitely greater in a country in which the press is free and information widely diffused, than in those in which restraints exist. The fourth sanction has reference to the bodily diseases which are the result of intemperance in all its forms. If it had been found by experience that the first, third, and fourth sanctions were sufficient to control mankind, it would be unnecessary to resort to the second for that purpose; but the object of positive law is not only to protect men in the enjoyment of their lives and properties, but to define rights and duties, to guard the former, and enforce the performance of the latter.

In addition to the law peculiar to each independent State, there is another kind, called “international,” which all civilized nations profess to

observe, and this consists of maxims of morality which have obtained currency among them all. The municipal law of a State is commonly divided into,—first, ecclesiastical ; secondly, constitutional ; thirdly, civil ; and fourthly, criminal. The first has reference, as its name imports, to matters appertaining to the worship of the Deity. The second is defined by Bentham to be “that branch of law by which designation is made of that person, or those persons, to whose power it is intended that on each occasion the conduct of all the other members of the community in question shall be subjected. The power which is here conferred is the supreme power.”* Again the same author says :—“The persons in whose hands is lodged the supreme operative power, as also those in whose hands the supreme designative power (appointment and removal included) is lodged, being determined, what remains for the maker of the constitutional code is the declaring in what manner the power and functions of the persons in whose hands the designative power is lodged shall be exercised : as likewise the marking out into a number of distinct branches the whole mass of subordinate power.”† Our author defines the *operative* power as exercised by the declaration made of the all-directing will of the supreme power ; the

* Bentham, vol. ix. p. 9, edit. by Bowring, Edin. 1843.

† Ibid., vol. ix. p. 10.

designative, or constitutive, by the determination made of the individuals by whom the former is exercised.

Criminal or penal law defines what shall be considered as a crime, *i. e.* an offence punishable by positive law, and assigns the remedy or punishment. Civil law,* which properly comprehends all that portion of the municipal law of a State not included in the division of penal, is that which creates rights and obligations and duties. The connection between civil and penal law is of necessity intimate; and some have even doubted whether much has been gained by making them the subject of distinct codes in such systems of law as have been hitherto promulgated.

This is not the place to specify in detail any provisions of civil or criminal law which it may be desirable to introduce in any given society, but for the discussion of those questions which may be properly treated of under the title given to this chapter, *viz.* 'The Rationale of Government.'

Such questions should be among the first to which the attention of a lawgiver should be directed, who had been commissioned to form a code or system of laws for a newly established community, where the whole field of jurisprudence was

* This term is unhappily ambiguous. It is used both as synonymous with the Roman law, and frequently also to designate the whole municipal law of any country.

"*Tabula rasa*," or nearly so. Let us assume that the society to which such system is to be applied is an offshoot from some highly civilized community, yet determined not to give any preference to the system of law of their mother country, except so far as it may seem to deserve it, but to intrust to some accomplished jurist, some living Bentham without his eccentricities, the task of preparing an entirely new code adapted to an advanced community, having personal property and about to possess lands and to be engaged extensively in trade and commerce, and requiring therefore laws protective of most if not all the rights, and enforcing the obligations ordinarily existing among the refinements of highly civilized life. Let us suppose the case of a colony which has just taken undisputed possession of a wide tract of land adapted, when cleared and brought into cultivation, to all the purposes of agriculture. Such a society would be subject to the restraints imposed by a fear of a Supreme Governor of the universe, and to some of those due to the dread of exposure to public reprobation: it would be subject also to the fourth sanction; and the first question therefore would be, assuming positive law to be required, in what way it would be proper to commence? The making of a complete code of laws applicable to all cases, assuming that such a thing is possible even at the formation of a society, is necessarily in the most

expeditious hands a somewhat lengthy operation. It would in practice be found necessary to begin by adopting temporarily such simple provisions of the law of the country from which the society sprung, as with certain slight modifications prevail in almost all countries and might be applicable to their then condition; and this before any attempt be made to produce a formal code; and this course is in fact pursued in the case of colonization from this country. But as by the hypothesis this system is to be superseded as soon as practicable, so far at least as it does not meet with approval, let us again revert to the question, In what way is our lawgiver to commence operations? He will doubtless, considering the peculiar position in which the community is placed, deem the first point requiring regulation to be the protection of the persons of the colonists, and of their personal property in the shape of clothes, furniture, implements, and so forth, which they have brought with them. He will therefore first enact provisions contained in the Criminal Law of most countries as to offences against person and property; but in legislating with this object he will be able to omit many niceties, refinements, and elaborate distinctions, which are found in the laws of long-established societies, and which would not be required as yet in the present case. The next point will be the title to the lands lying unoccu-

pied and uncleared before them, comparatively valueless at present, but capable of being rendered by labour well applied highly valuable. It is plain that no one will be willing to bestow that labour, no one will lift an arm or wield the axe to cut down one of the giants of the primeval forests, until he can feel reasonably secure that he shall derive advantage from the results of his labour. It may be, that certain portions of the country have been, previously to the arrival of the settlers, appropriated ; but however this may be,—whether certain members of the society are already in possession of some title to occupy ; whether prior occupancy and labour bestowed are intended of themselves to confer that title ; or whether some person or body invested with authority in the mother country or among the settlers themselves is endowed with that power ; whether one, or any, or all of these modes of acquiring property are to prevail, still one of the provisions of the new laws must define the right to possession itself, and all its attendant duties, such, for example, as that the land must be enclosed, and its boundaries sufficiently well marked out, and so forth : and other provisions no less necessary must protect the settler in the enjoyment of the rights so created, by imposing punishments for their violation. But we must remember that all this assumes that these rights of the colonists to their land, and to security

of person and of the property they transported to the country, are not sufficiently protected by the three sanctions to which reference has been already made; for even coercive provisions for guarding life and property, to be imposed by positive law, may be inexpedient if these three sanctions already afford sufficient protection. It is needless to pursue any further the course of legislation in the supposed new settlement, as the discussion has been carried to the point necessary for introducing a most important question in the philosophy of government, which has been raised by the example, viz. the discovery of the cases in which it is expedient to have recourse to the political sanction, as distinguished from those which are better left to be dealt with in other modes. This difficulty occurs at the very outset of any attempt at framing laws, and yet, however strange it may appear, there are few writers who have discussed this point to any purpose. Bentham however, in the fifteenth and nineteenth chapters * of his 'Principles of Morals and Legislation,' has some valuable remarks in reference to this important subject.

Bentham mentions four cases in which *punishment* should not be inflicted by positive law:—

First. Where it is *groundless*, i. e. where there is no mischief to prevent.

* That is to say, the fifteenth and nineteenth in the edition above referred to.

Secondly. Where it must be *inefficacious*, for it cannot prevent the mischief.

Thirdly. Where it is *too expensive*, that is, the mischief produced is greater than that prevented; for punishment is always an evil; it destroys happiness, and is therefore admissible only so far as it excludes some greater evil.

Fourthly. Where it is *needless*; where the mischief may be prevented, or cease of itself, without it, that is, at a cheaper rate.

In reference to this question, Mr. Austin observes,* positive law may be superfluous or impotent, and only produce gratuitous vexation. Public opinion may suppress the evil as completely as it can be suppressed. Again, the strongest possible fear resulting from penalties imposed by the political sanction, may be mastered by a stronger fear of sanctions which conflict with that of the law. The instance of duelling is an illustration; the fear of losing honour, a case falling under the third sanction, has been found sufficient to overcome the dread of an ignominious death. All that is enjoined or forbidden by the Divine Law† must be holden to be enjoined and forbidden by the rules of positive morality or private ethics; but it by no means follows that acts so forbidden should also

* Austin, 'Province,' &c., pp. 171-2, and note.

† Austin, *ibid.*

be punished by positive law; *the onus of proof that a law is necessary always lies on the legislator.* The immediate and principal end of punishment* is to control action either of the offender or others. That of the offender is controlled by its influence either on his will, in which case it operates in the way of *reformation*,—or on his physical power, in which case it operates by disablement: the action of others it can influence no otherwise than by influencing their wills, in which case it operates in the way of example. Example is the most important end of all, in proportion as the *number* of the persons under temptation to offend is to *one*.

Punishment is groundless, of course, in all cases in which the act committed ought not to be treated as an offence at all, either as falling under the control of another sanction, or, as is the case of usury, *e. g.*, constituting no wrong; but assuming, as is done in all the following examples, that the act in question is rightly treated as an offence, punishment is groundless: †—

First. Where there never has been any mischief, as when *consent* was given to the performance of an act which without that permission would have been mischievous.

* Bentham, vol. i. p. 83, note.

† Ibid. p. 84. To avoid continual reference, it may be as well to mention that chapters 15 and 19 of the 'Principles of Morals and Legislation' of this author are the foundation of many of the remarks in this chapter.

Secondly. Where the mischief was *outweighed*, where the act was necessary to the production of a benefit of greater value than the mischief, as, *e.g.*, the illegal execution of the Catiline conspirators to save the State.

Thirdly. Where there is a certainty of adequate compensation, which assumes that the offence admits of compensation, and that it is sure to be forthcoming.

Punishment is inefficacious,—

First. Where the penal provision is not established till the act is done, as in the cases of an *ex-post facto* law, and a sentence beyond the law.

Secondly. Where the penal provision is not conveyed to the knowledge of the person on whom it is intended to operate.

Thirdly. Where, though conveyed, it could produce no effect on the offender, as in the cases of extreme infancy and insanity.

Fourthly. Where the evil to be incurred, in case the offence is not committed, is so great that the evil denounced by the penal clause cannot appear greater. This may happen in cases of personal danger, or where reputation is at stake, as in the instance of duelling above given.

Punishment is too expensive or unprofitable,—Where, the nature of the offence and that of the punishment being compared together, the evil of the latter exceeds that of the former. The evil of

the offence is, of course, greater or less according to its nature, but the evil of punishment is divided by Bentham into four branches, as follows:—

First. The evil felt by those by whom the law is *observed*, i. e. the pain which it gives them to be debarred from doing the act which is forbidden.

Secondly. The evil of *apprehension*,—the pain which a man feels who has committed the offence at the thoughts of undergoing the punishment. This is felt by those by whom the law has been broken.

Thirdly. The evil of *sufferance*,—the pain felt in virtue of the punishment itself from the moment it has begun to be inflicted.

Fourthly. The pain of *sympathy*, and the other evils endured by the connections of the offender pending his punishment.

The evil of punishment is liable to be enhanced by peculiar circumstances, such as the multitude of delinquents amenable, or the displeasure of the community when, owing to the influence of some temporary cause, they happen to imagine that the offence ought not to be punished at all. It is clear that, as the proportion between the evil of the punishment and of the offence varies with each form of delinquency, no decision can be arrived at as to the unprofitableness of punishment until each offence has been separately considered in detail.

Punishment is needless where the offence may be abated as effectually at a cheaper rate, as, *e. g.*, by education in the case of those offences which consist in disseminating pernicious principles in matters of duty.

The above then are cases in which punishments should not be inflicted.

Now to revert to the question, viz. the operation of the four sanctions in reference to offences, two of them, the religious and the physical, may be dismissed at once with this observation,—That they must be considered as happily at all times in action as restraining motives, and cooperating with the other sanctions in enforcing that propriety of demeanour and conduct which is conducive to the best interests of society. These sanctions must be viewed, therefore, as something in addition, as other guarantees for good behaviour, superadded to that afforded by the sanction of morality, and that of law when imposed. No further remark is called for in reference to the former: in discussing the cases meet for laws, the comparison will always be between the bounds of the respective domains of law and morality.

Now, ethics consist of two departments, one relating to positive morality, the other to positive law; the first comprises the *science of morals*,* the

* Austin, 'Province,' &c., p. 133.

second the science of government, of which the *science of legislation* is a branch. Private ethics have happiness for their object,* and so has legislation,—that is, such happiness as is worthy of intellectual beings; the end they have in view is of the same nature, and the persons whose happiness they promote are the same. This being premised, what cases ought to be left to be dealt with by private ethics? It is clear that every act which is likely to militate against general happiness is an offence against morality, and should be studiously abstained from; but it does not therefore follow that the legislator ought to compel abstinence. Now, the instances in which the legislator ought not to inflict *punishment* have been stated. Are the cases so abandoned by the lawgiver always proper subjects for the domain of morality? It will appear upon examination that some of them are, and some are not: those cases in which punishment was stated to be groundless are likewise unfit subjects for moral restraint; but on the other hand, those in which the punishment has been described as unprofitable constitute the peculiar domain of private ethics; but it is unnecessary to pursue this investigation, because the whole subject is ably treated in that work of Bentham to which reference has been so often made.

The above observations relate to penal law only,

* Bentham, 'Principles,' &c., vol. i. pp. 144 *et seq.*

but it is in that branch of legislation that most of the questions of doubt will necessarily arise. Thus in a newly established colony the lawgiver may doubt as to the expediency of framing and promulgating a law containing provisions analogous to those of our libel law; but he will have no hesitation in defining by positive law the nature of the right to land, and of maintaining by like sanctions the inviolability of contracts. Moreover, it will be found that the principles laid down with respect to the cases meet to be made the subject of penal legislation will prove very useful guides in deciding in all cases, civil as well as criminal, the general question of the limits of the domain of law and morality. No one who has had any experience as a legislator, or who has carefully watched the conduct of deliberative assemblies, will hesitate to agree with Bentham in the sentiment, that "with regard to this branch of duty legislators have in general been disposed to carry their interference full as far as is expedient. The great difficulty here is to persuade them to confine themselves within bounds. A thousand little passions and prejudices have led them to narrow the liberty of the subject in this line, in cases in which the punishment is either attended with no profit at all, or with none that will make up for the expense."*

* Bentham, 'Principles,' &c., vol. i. p. 147.

Many illustrations of this truth might be given by citing examples from recent legislation. Most of the instances of undue interference have been justified by the advocates for new laws on the ground of humanity to the ignorant and unprotected. In addition to the principles above enunciated, the following observations may prove useful guides in deciding on the propriety of imposing the legal sanction in any particular instance.

First. Laws should never be passed which either cannot be executed, or of which the execution is so difficult that the temptation to neglect their observance is likely to surmount the fear of the punishment.

Of laws of this description the Chimney-sweepers' Act is a notable example. Several instances of gross cruelty on the part of master sweepers towards their infant apprentices having been brought to the knowledge of the community, and an impression prevailing that a trade which offered so much temptation to severity, and was of a character so revolting to the nice sensibilities of refined life, ought to be put an end to, the legislature came to the determination to abolish the practice of sweeping chimneys by the agency of boys, and to enact that they should be all swept by machines on pain of punishment. No *sufficient* preliminary inquiry seems to have been made to ascertain whether this was feasible in respect to

all the then existing chimneys, some of which, being very ancient and of a peculiar construction, oppose at all events much difficulty to the application of these instruments, even if it be admitted, which some deny, that they can be properly swept at all by such appliances. This difficulty seems to be implied in the language of the Act itself, which contains some absurdly elaborate provisions as to the construction of all future chimneys. Now, if the statements of some of those who are opposed to this measure are correct, the alternative presented to those members of the community who chance to be possessed of ancient mansions, is either to have their houses burnt to the ground or to disobey the law; and at all events, the restrictive provisions as to new buildings above referred to are of a nature so unlikely to meet with any attention from the imperfectly educated mass of provincial builders, that it seems probable that they have remained a dead letter through the greater part of the kingdom. Now, it is hardly necessary to enlarge on the impolicy of retaining any laws on the Statute Book which are not, cannot, or ought not to be obeyed. It becomes known to a certain portion of the members of society that there are Acts of Parliament in force, the provisions of which are neglected with impunity; and this gradually induces a habit of thinking in reference to these subjects, which, if the conduct

of the legislature gave frequent opportunities for indulging it, would gradually undermine that deference for the sacred majesty of the law so characteristic of our race, and which has carried us unscathed through so many perils.

The above considerations show the propriety of the step adopted in 1856 of repealing a variety of obsolete statutes.

Secondly. Laws should never be passed forbidding acts which, in the opinion of a large proportion of the educated members of the community, are in themselves innocent.

It must be admitted that many who inherit or are elected to the responsible duties of a legislator have received no education of a nature to qualify them sufficiently for the work they are called upon to undertake; the nice distinctions laid down by jurists on the subjects which are now under discussion, and which have been in part stated above, are unknown to them: they or their connections perhaps experience some annoyance or inconvenience from some act which has not as yet been included by the legislature among the catalogue of offences; or they apprehend detriment to some valued right which they or their friends enjoy; and influenced by these or other insufficient motives, they instantly adopt the conclusion that a new law is necessary, and not unfrequently even in cases which have been already sufficiently provided for

in previous statutes. That new law is, indeed, often framed in profound ignorance of previous legislation on that and cognate subjects, and with a view to redress some single and detached grievance which might have been included with much greater propriety in some more general measure; and much confusion and complexity is introduced into the Book of Statutes in consequence. By some men, no subject, however trifling, is deemed below the dignity of legislation. A senator during an equestrian excursion is met by a cart drawn by dogs or goats, or some unusual animal of draught, his horse is terrified, and, maybe, he is himself thrown; and he immediately concludes that carts drawn by dogs and goats ought to be prohibited by law. Many arguments affording much better grounds for the crusade against this practice than that above stated have doubtless been urged to justify the petty legislation adopted in 1854 on this subject: the practice was chiefly condemned on the ground of its alleged cruelty, but cruelty was punishable by another statute; and the experience of Arctic voyagers seems to contradict the assumption that the dog is ill adapted by his physical constitution for such employment. However this may be, the instance is adduced as a fair illustration of the source to which laws of this petty character often owe their birth. Not that it is meant to contend that the advocates for their

adoption are influenced by any improper motives ; but of this we may rest assured, that if the majority of the intelligent portion of a community can ever with justice say of any action, " Well, there is no great harm in it, after all," it must always be a very doubtful case for the interference of the lawgiver, and the propriety of so interfering should be very rigidly canvassed. The Act passed to restrain the assumption of certain titles by Roman Catholic Prelates will, by many, be considered as an example of an impolitic Act coming under this head. The Maine Law of the United States is a notable instance.

Thirdly. Laws should not generally be passed which, though good in themselves, either too much *anticipate* public opinion, or are hostile to the deliberately-formed sentiments of a large majority of the population of any country.

To justify the propounding a new law, it is not always sufficient to prove that it is a wise measure, framed with consummate skill and calculated to effect a useful amelioration in the institutions of any country ; it should also be ascertained in addition that the community are prepared to receive it ; or at all events that it will not be considered unnecessary and impolitic by the bulk of the population, though their opinion may be grounded on imperfect information. It may be a measure introducing extensive changes in depart-

ments of administration the details of which are very inadequately understood, or involving a great outlay of public money upon objects the importance of which is fully recognised only by a few of the most intelligent of the community, and in reference to which popular prejudices prevail. A provident and experienced statesman would say of such a proposal,—“I cannot hope to pass such a measure until the subject is better understood and appreciated than it is at present; the matter must be well *ventilated* before I can venture to bring the Bill in, or at least press the measure to a division,” and so forth. There is no doubt, for example, that great benefits would accrue to this country if more extended encouragement were given to science than has hitherto been afforded; but in the present backward state of the education of the people, any measure which should be introduced into Parliament for the purpose of effecting this object would require to be carefully considered with reference to the objection above stated to laws which are somewhat in advance of their age. At the same time it cannot be too strongly urged that it is the duty of those who by their position and talents are enabled to take a lead in salutary improvements to prepare the way for their introduction, by gradually raising the intelligence of the masses to the point at which they will at least

begin to appreciate the value of such measures ; and then the enlightened statesman should lay hold of the first favourable opportunity which may present itself for propounding them.

If the opinion of a large majority of the population of any country be opposed to a new law, it matters little whether such opinion be right or wrong so far as the imprudence of the measure is concerned ; though there may be exceptional cases in which the risk of proposing it must be encountered. There may, as Bentham observes, be some temporary cause in operation which may make certain measures peculiarly unpalatable ; some reigning prejudice under the influence of which the people might be goaded into rebellion, should any change be proposed which had a tendency to aggravate the feelings which may have given rise to it. Thus, during the feverish and irrational excitement which prevailed at the periods both of the Popish and Rye House Plots (1678 and 1682), though the current ran in opposite directions, it would not have been the act of a prudent statesman to propound any law which conferred any benefits upon the unhappy section, as such, of the community which happened to be displeasing to the bigots and fanatics whose principles were then in the ascendancy. But here a distinction must clearly be drawn : it may be necessary to the well-being or even safety of the

State that the Government should take on itself the serious responsibility of attempting to counteract the injurious effects of some prevailing prejudice, either by executive or legislative measures; but the probable hostility of the people should be duly weighed and considered with reference to the question whether there is a reasonable probability that the unpopular measures if adopted can be adequately enforced.

Fourthly. No attempt should be made to reform the moral conduct of society by the enactments of positive law, that is, to make men good and virtuous by Act of Parliament.

However heinous may be the acts as judged by Divine law against which such enactments are directed, they are usually of a nature that escape the eye of the public; and thus their public punishment, by the scandal which it creates, is more injurious than their impunity. Moreover, this is a notable interference with the domain of private ethics, and punishment by law is inexpedient, as inefficacious, unprofitable, and needless.

Many other instances may doubtless be adduced of cases which require no action at all on the part of the ruling authority, and are better left to the operation of those motives through the agency of which the moral sanction influences human conduct in general; but the observations already made may be sufficient to indicate the

principles which are applicable to each new case that may present itself. The general maxim that the onus of proving a positive law to be necessary lies wholly on the propounder of it, must never be lost sight of; and, the probable efficacy of the religious, moral, and physical sanctions in redressing the evil should always be carefully weighed.

The proposer of a new measure is occasionally met *in limine* by the objection that it is *unconstitutional*, or that it is *illegal*, or that it is analogous to some act which is an offence by law, or that it is not *right*, or that it is not *just*. All who are experienced in the tactics of deliberative assemblies know the value of a vague general term, or of a hard word, conveying some obnoxious stigma, in resisting a measure which meets with their disapproval; but the employment of such expressions can hardly be considered as proper or justifiable. There is no term, however, of which such extensive use has been made in attempting to arrest the march of improvement as that of "*unconstitutional*." The Reform Bill was said to be *unconstitutional*, and no doubt it was so in the sense of being a great change from that form of polity which had prevailed for many years; but had those who brought forward that objection been free from party feeling, and duly considered the meaning which ought to be attached to that word,

they would have hesitated to apply the epithet to that great measure. Mr. Austin* defines an unconstitutional act to be one which is inconsistent with some given maxim which the sovereign habitually observes, and which is by the bulk of the community regarded with approbation. These maxims the sovereign is bound by moral sanctions only to observe. To violate them may be immoral, but it cannot be *illegal*. To pass an act, *e. g.*, repealing the Articles of Union with Scotland or Ireland might be immoral, irreligious, or a sin, but it cannot be illegal. The sovereign power is omnipotent. Again, the sovereign power should in the opinion of this author be said to act unconstitutionally when its conduct conflicts with that compound of positive morality and positive law which fixes the structure of the given supreme government, that is, determines the character of the persons in whom sovereignty shall reside, and the mode wherein supreme power shall be shared by constituent members of the sovereign body; that, in short, which is properly termed the Constitution. Mr. Austin does not of course mean that a law altering some of the details of that machinery by which each one of the constituent members exercises its share of power would be unconstitutional; he would apply that term only to a measure which seriously impaired or rendered

* Austin, 'Province,' &c., pp. 273 *et seq.*

nugatory the political influence of any one of those constituents. For example, the addition of more electors, or more boroughs returning members, would not be, while the abolition of the veto of the Crown would be, unconstitutional. If the King of France, *e. g.*, who was virtually sovereign from the period of Richelieu's administration till that of the Revolution of 1793, had by royal ordinance repealed the Salic Law, he would have done an unconstitutional not an illegal act; that is, one which conflicted with the traditional maxims implanted in the affections of the bulk of the people. In such a case resistance would have been illegal, though it may have been agreeable to positive morality, and to utility its test.

The same remarks would apply were the parliament of England to vest the whole sovereignty in the king, or in either of its other two constituent members, alone. But would such conduct be *just*, would it be *right*? Now the terms "just" and "right"* should clearly be used with relation to some determinate law which should be assumed as a standard. Positive law cannot be *legally* unjust; for parliament being omnipotent may *lawfully* set any commands whatsoever to its subjects, but such laws may be so contrary to the plain and recognised principles of morality, that it may become a moral duty to resist and refuse obedience. On

* Austin, 'Province,' &c., pp. 276-7.

this difficult question, When does resistance become morally right? there are some valuable remarks in Mr. Austin's work.

Justice sometimes denotes emphatically a conformity to the ultimate test of utility, that is God's law. When the act is pronounced to be in harmony with that, it may be termed *just*; and this must be considered equivalent to an assertion that it accords with the principle of utility, which is the index to the Divine law; and when the act conforms to that index it must be generally useful, and tend to promote the greatest happiness of the greatest number.

There is another term of constant recurrence in political disquisitions, which has not received the advantage of a definition by the above-mentioned able and philosophical jurist; and that is the word "Civilization." This term may properly be used to designate the condition of a nation which not only habitually obeys a common superior, but which possesses an average amount of security for life and property and of intellectual cultivation.

When it has been decided that the evil to be redressed is a proper subject of a positive law, many grave matters at once present themselves for discussion:—As, *e. g.*, should the law be in all instances propounded, taken in charge, and advocated by those who represent the executive

authority of the State? Or should any private member of the legislative body (however unskilled and incompetent) be permitted to take that important function upon himself? However pregnant with mischief this latter course may appear, it is clearly inconsistent with the nature of a free deliberative assembly to deprive its members of the right of propounding measures to that legislative body to which they belong; but the Constitution should provide every possible check likely to arrest the evils to which this practice must of necessity give rise. To some of these evils there has already been occasion to allude. It has been seen that inconveniences arise where laws are proposed by unskilful men, who have their attention only directed to some one particular grievance, the remedy of which is their only object. For the evil may have been already partly met by some law which only requires to be slightly amended; or it may be only a particular case of a general mischief, which would be far better redressed by a general measure; or the particular measure proposed may be inconsistent with other laws which it leaves unrepealed and even unnoticed. These inconveniences are prodigiously aggravated by the treatment to which laws, however skilfully brought forward, are usually subjected in their passage through a popular assembly. The precautions which have been devised with a view to prevent

hasty legislation are the origin of some of the mischief. In this country, before a measure can become law, it must have passed through several distinct stages in two separate Houses of Parliament. In many of these stages the bill is subject to amendment; and these amendments are often suggested by those who are imperfectly acquainted both with the provisions of the new law, and with the statutes already in force which relate to its subject-matter; and who, even had they been quite familiar with both, would in some cases have been incompetent, from the want of technical knowledge and the command over legal phraseology, to make the required alterations. It is evident, therefore, that it must often happen that alterations will be proposed and adopted which either conflict with other clauses of the bill itself, are inconsistent with former statutes left unrepealed, or otherwise tend to damage the measure. It often happens that the member who has charge of the bill is fully aware of the evil, but through fear of losing his measure is compelled to submit. In the session of our own Parliament of 1856 a remedy was proposed to be applied to the evils above described, viz. the appointment of an officer of both Houses of Parliament, with a competent staff of assistants, to revise the various bills propounded, and the amendments from time to time introduced into them, and generally to aid

the legislature with advice during the progress of measures, without further interfering with its independent action. The necessity for modifying the present practice can only be thoroughly appreciated by those who are at once experienced lawyers and legislators: the scheme suggested may not wholly remedy the evils which exist, but that it will be productive of benefit can hardly be doubted.

When a popular assembly, with or without the control of a higher Chamber or Senate, but without the control or advice of such an officer as is above referred to, has for several centuries been employed in exercising its legislative functions in the mode just described; applying from time to time a remedy to each separate grievance presenting itself to notice, and often interfering in matters which in a higher stage of civilization would have been properly abandoned to the restraint of other sanctions; a state of things is produced which is greatly to be deplored. An enormous mass of crude, undigested, often obscurely worded and unintelligible statutes will have accumulated; and though almost wholly unknown to many, such laws will be binding on the whole community, which also may be, as in this country, under the obligation of obeying the dictates of what is called *common*, customary, or unwritten law, which can be collected only from the deci-

sions of courts, as recorded in innumerable volumes of reported cases, or from what are called text-books, in which the results of such decisions are stated with more or less accuracy. The inconvenience, if not injustice, of calling on members of a society to obey the provisions of laws with which they are necessarily to a great extent unacquainted, can hardly be wholly avoided; but the mischief is very much aggravated when the laws of a country are in such a hapless state of prolixity and obscurity as that above described; in which case even those who practise law as a profession are often wholly unable either to point out to their clients the proper remedy for any wrong under which they may happen to be suffering, or to ascertain with certainty the nature of their rights, or the liabilities to which they may be subject.

The state of the statute law of England, which exactly answers to the above description, has led to the appointment of several commissions with a view of remedying this monster grievance; but the task is of a very arduous nature, and its difficulties much aggravated by the peculiar constitution of our Houses of Parliament. At the outset of the labours of these commissions a question presented itself of vast importance, which has never yet been properly discussed and considered. When the laws of a country have arrived at the condition above described, there are two

methods by which they may be dealt with, improved, and made more accessible to the community bound to observe their dictates; the first is by what is termed "Consolidation," the second is "Codification." The first deals with the statute law only, and is so far an incomplete remedy; the second embraces the common unwritten law as well as the written.

Consolidation is best performed by arranging the whole body of the statute law, or at least such portions of it as have any title to be considered "permanent rules of conduct," under various heads or classes, as, *e. g.*, Procedure, Criminal Law, Real Property Law, Marriage Law, Customs or Excise Law, and so forth; collecting together all the various Acts and parts of Acts relating to each class and sub-class, and combining their several provisions in one or more new Acts; but making no amendments, except when absolutely necessary in order to remove glaring inconsistencies and defects, and always calling the attention of the legislature to such amendments, when made, by notes; taking care also to preserve a certain uniformity of method and diction in framing the new laws, in conformity with rules carefully considered, prepared, and promulgated, before the work commences, to the draftsmen selected to prepare the several Bills.

Consolidation has the advantage of being much

more easily carried into effect than the other plan which will be presently adverted to. This assumes however that when the legislature shall be assured, on testimony in which they can place full reliance, that the new or consolidated measures have been most carefully considered by small committees of distinguished lawyers, to whom they have been severally referred ; that they contain few if any alterations of the existing law, and those changes specified in the margin of the Bill or otherwise ; that then the members of both Houses of Parliament will allow them to pass without referring them to select committees, which would be impossible in the case of such an enormous mass of legislation ; and without attempting any material alterations, least of all any which would amount to propositions to alter the existing law, while the new measure proposes only to simplify it, and render it more accessible. This expectation seems not unreasonable when we reflect that the new Bills would be in fact little more than reprints of existing laws prepared under the direction of skilful editors. This method of Consolidation, however, labours under the disadvantage of leaving almost the whole unwritten law untouched, and therefore still inaccessible, as before, to the great majority of the community who are compelled to obey its injunctions.

Authority is, however, given to one of the commissions to which reference has been already

made, viz. to the Statute Law Commission, to combine with the process of Consolidation "the incorporation of any parts of the common or unwritten law, in such manner as shall seem to them desirable;" and this power may perhaps be usefully if sparingly exercised. Moreover, it is with truth alleged that consolidation is a proper and perhaps a necessary preliminary to codification when the written law of any country has arrived at the state of confusion above described.

The method of Codification, however, has a much more extensive operation : it proposes to incorporate in one code, or body of written law, the whole municipal law of the realm, both common and statute, in like manner as the same object has been partly effected among our neighbours in France by the enactment in the time of the first Empire of the "Code Napoléon," and also in certain provinces of the United States. The objections to this course are its extreme difficulty, the enormous length of time which it would necessarily occupy, the extent to which it is likely to alter the whole body of law by which the conduct, rights, and liabilities of every member of an advanced state of society are controlled and determined, the confusion which might thus arise, and the consideration that such a code, when prepared, would necessarily require alterations from time to time which it might be difficult to introduce into a system of law so

artificially framed without fatally impairing its symmetry and perspicuity. An attempt was lately made to codify that portion of the criminal law which relates to offences against the person, and a Committee of the House of Lords were occupied for several days in revising a Bill, very carefully prepared, by which that object was supposed to be accomplished. The Committee was composed of all the distinguished lawyers members of that House, and other peers, some of whom had received a regular legal education and practised the law as a profession. When the Bill had passed through the Committee, the measure as so amended was referred to the learned judges, who took numerous exceptions to its provisions. It has been alleged that these objections were in many instances unfounded, but they led to the withdrawal of the measure.

The Statute Law Commissioners appointed in August, 1854, agreed to postpone all attempts at Codification properly so called till the work of Consolidation had been performed. The propriety of this determination will, perhaps, be doubted by many; for in theory the subjects of every sovereign have an undoubted claim to be informed of the provisions of those laws to which they are expected to conform under severe penalties for non-obedience; but, on the other hand, it may be said, though few men

know the exact terms in which the principal crimes, such as treason, burglary, larceny or stealing, arson, &c., are forbidden by law, yet all know that they *are* forbidden; all know that life and property are protected, that contracts and trusts must be executed, and so forth; and that, inasmuch as a successful Consolidation of our statute law, if not a necessary preliminary, will be at the least a most useful auxiliary in the extremely difficult operation of forming our laws into a code, the determination of the question—whether this latter work should be attempted at all—might well be deferred till the former be completed, unless it can be shown that some special mischief may be produced by such postponement; that, *e. g.*, labour and time might be lost by adopting such a course; for it *may* be that those who are employed to consolidate our statute laws might, in many cases, with very little additional cost of time and toil, incorporate the provisions of the unwritten law; whereas, should this operation be postponed, other draftsmen must often be employed upon the same heads and departments of our laws, who will be compelled to acquire, for the purpose of fitting themselves for the due performance of their task, much of the knowledge which was already possessed by those who preceded them; and thus the time and cost of Codification will be greatly augmented. It would be un-

advisable to pursue this discussion, but no one can doubt that the right decision of the question which has been raised is of vital importance.

It will be vain, however, to adopt either of the above processes with the laudable object of amending our laws and rendering them more accessible, if no step be taken to guard against the recurrence of similar evils in future. The Statute Law Commissioners* propounded rules for the guidance of the draftsmen who framed the Bills prepared under their auspices, and these rules will equally serve as models for all engaged in the preparation of Acts of Parliament; and they proposed that new machinery for the revision of Bills during their passage through the two Houses which has been already mentioned. It may be doubted whether these measures will alone be sufficient. Some useful ameliorations of the Standing Orders of those Houses might perhaps be introduced; as, *e. g.*, no amendments of a Bill should perhaps be allowed on the third reading, nor in any case in which the proposed amendment has not been previously printed and circulated. The stages of a Bill might possibly be usefully curtailed, at least in the House of Commons; and work which has

* It has been asserted that these Commissioners have done *nothing*. They have made four valuable Reports, and caused about one hundred consolidated Bills to be prepared, and a very useful Digest of the Statutes.

been well performed in one session might be allowed to stand good without being repeated. Also the appointment of committees in both Houses on the same subject-matter might be dispensed with, and the difficulties attending the proposal of a joint committee of the two Houses might be in time overcome.

Bentham proposed that new laws should be always accompanied with reasons justifying their enactment; but it may be doubted whether this is necessary in any country in which the discussions which take place in the legislature are public, so to speak, and published almost *in extenso* for the benefit of all interested: for it cannot but happen that the reasons both for and against any measure of importance which may be proposed will be stated by some of those who take part in the debate. The same enlightened jurist also advocates the expediency of promulgating the laws which have been passed, in order that those to whom such commands are addressed may be made acquainted with their purport. It is not probable, however, that some of the methods of promulgation which he advocates will meet with approval. He proposes that the laws should be *read* in churches, as, *e. g.*, the laws in reference to the relation of husband and wife during the ceremony of marriage. He proposes likewise that those statutes which regulate conduct in certain locali-

ties, as for example in a public market, should be set up in the places themselves.*

Bentham's works contain also another suggestion the propriety of which will not be generally admitted,—that, inasmuch as in a code properly prepared there would be a complete classification of laws under the heads to which they respectively belong, each member of society should be required to provide himself with a copy of such portion of the code as relates to his own condition of life; and that its being set up in a fixed place, as a shop for example, should be enforced by police regulations.†

Whatever may be thought of some of the foregoing suggestions, few will be disposed to doubt the propriety of devising some means of making known to the community at large the provisions of the laws enacted from time to time, which may properly be termed “permanent rules of conduct,” and are of general application. The classification of Acts of Parliament recommended in the reports of the Statute Law Commissioners would so far promote this desirable object that it would render more accessible to each class of the community that particular portion of the statutes specially applicable to their own conduct and interests; but in conjunction with such an improved classification, some arrangements should be made pro-

* Bentham, vol. i. pp. 158-9.

† Ibid., p. 159.

viding for the cheap printing and general circulation of those Acts of which the provisions affect large sections of the community.

The preceding remarks constitute necessarily but a very cursory view of that to which the term "rationale of government" has been applied. In treating of these questions it is necessary to eliminate the non-essential elements of government, and retain those which depend scarcely at all on time or place. For this purpose it is necessary to abstract much that we have in this country been accustomed to consider as permanent ingredients in every form of civil polity. Though what has been said can hardly be considered as applying to a very early stage of civilization, yet there is much that is applicable even to this period.

In every phase of society men are induced to lead an orderly and submissive life, in due obedience to the powers that be, by a variety of mixed motives or springs of action: the moral sanction in a rude state is necessarily weak, but the other three sanctions may have their full force even in the infancy of nations.

Enough has, perhaps, been said on the importance of the operation of the moral sanction in an advanced stage of a community in preserving order and enforcing submission to the law; but among the various motives by which men are induced to be obedient, we must not omit that

peculiarity in our organism by which *habit* is permitted to exercise so important a sway over all our intellectual and physical operations. All our faculties are, as is well known, so constituted as to be susceptible of almost miraculous improvement by the mere act of continuous exercise. Attention, however, has not been sufficiently directed to the part which this element of our natural constitution plays in government. We know that it is by practice (another name for habit) that we ascend from reading single letters with difficulty to grasping at a glance several lines of letterpress ; that the pencil and chisel are wielded with magic skill ; and that the player on the violin learns to subdivide the finger-board of his tiny instrument into infinitesimal portions of space with unerring accuracy ; and finally that wonderful feats of intellectual power and skill are performed. All this we know, but are apt to forget how much we owe to the same principle as a preserver of order in all advanced stages of nations, especially where, as in this country, one peculiar form of government has endured for ages uninterruptedly. We obey because we and our ancestors before us for many generations have been in the *habit* of obeying, and habits once acquired are hard to be broken through. It is by adverting to the operation of this principle that jurists obtain their definition of political society.

"When," says Mr. Bentham, "a number of persons are in the *habit* of paying obedience to a person or assemblage of persons, &c., such persons are said to be in a state of *political society*.*

It might be anticipating the discussions of the next chapter, which is appropriated to the influence of time and place on legislation and government, to enter into detail in reference to the peculiar institutions which have been abstracted in order to present the machine of government in its most simple phase.

Of such a subject as the organization of political society it is extremely difficult to take an unprejudiced view, especially when those who venture to treat of it have to contend possibly with a political bias confirmed during the course of a parliamentary career of some duration: in such a case more than ordinary care is required, lest the sacred interests of truth should be sacrificed to party views. It is to be hoped that no ground has been given for any complaint under this head.

In treating of the cases in which the political sanction should or should not be superadded to the other three, a line of conduct has been sketched out which will doubtless find more favour with the liberal section of the two great parties into which our nation is now divided, than with the other: but this result will be owing probably not so much

* Vol. i. p. 263.

to any particular bias as to the circumstance that the leading men among the former have probably directed more of their attention to the principles of jurisprudence and the doctrines of the great authorities on this subject than the chiefs of the latter; and this is not surprising when the advanced liberal tendencies of these leading authorities are considered. They have also devoted more of their time to the study of economical science; and that study contributes much to enlighten those who pursue it earnestly as to the limits of the duty of the Executive and Parliament with reference to many great social questions now continually mooted by ardent philanthropists, who too often look to the legislature to afford a remedy for evils which cannot be remedied by any such means, but may often be increased by ill-timed interference, dictated, no doubt, by a spirit of benevolence and kindly feeling towards the less fortunate members of society, but adopted in defiance of well-established maxims of political science, and with a total disregard to the hardly-bought lessons of human experience, on the basis of which such maxims have been carefully reared by men far in advance of the age in which they lived.

CHAPTER IV.

ON THE INFLUENCE OF TIME AND PLACE ON
GOVERNMENT AND LEGISLATION.

THOUGH human nature is in its general features the same at all places and in all times ; though everywhere, and in all ages, men will seek pleasure and fly from pain ; yet every nation has its own peculiarities, and every nation is different at different stages of its history. It is a trite but true observation, that there is much analogy in this latter respect between nations and the individuals of which they are composed ; and the seven ages of man, so graphically described by our great dramatist, might perhaps with little variation of terms be applied to whole communities. All nations pass through that warlike phase when they seek the bubble reputation at the cannon's mouth ; and all subside into that more sober and staid existence when more worthy objects of ambition engross their thoughts ; and the lean and slippered pantaloon is no bad type of the closing-scenes of the most splendid empire which the world has ever seen.

Bentham has devoted a chapter to the influence of time and place on legislation ; but it is not diffi-

cult to see that the whole subject resolves itself into the effect of national peculiarities, whether derived from climate, mental or bodily constitution, state of civilization, or other cause. The character of the same nation may in some particulars continue the same for long periods; in mathematical language it may involve some constant, but there must be always one or more variables, and most of the elements will change during the course of its progress to maturity. The two questions of time and place may well be considered therefore under the general head of "national peculiarities;" and this term is again merely descriptive of the instruments and materials with which and on which the legislator has to operate.

But are there any laws which are independent of time and place? "Were I to choose," says Bentham, "to what I would (most truly and readily) attribute these magnificent prerogatives of universality and immutability, it should rather be to certain grounds of law than to the laws themselves: to the principles on which they should be founded."* Again: "The rules concerning the cases that are respectively meet and unmeet for punishment and for reward; the rules concerning the proportion proper to be observed between offences and punishments, between acts of merit and reward; the rules concerning the properties to

* Vol. i. p. 193 of edition of 1843.

be wished for in a lot of punishment and reward ; the principles on which the division of offences has its foundation ; the principles on which the various methods of attacking offences by indirect or far-fetched means ; all these, if they are just and proper now, would at any time have been so, and will be so everywhere, and to the end of time. They will hold good so long as pleasure is pleasure, and pain is pain ; so long as steel wounds, fire burns, water seeks a level, bread nourishes, inanition destroys ; so long as the tooth of the slanderer keeps its venom ; so long as difference of sex attracts ; so long as neighbour needs the help of neighbour ; so long as men derive credit or fortune from their ancestors, or feel an affection for their children.”*

The legislature of a given country, at any given epoch, frames, or rather intends to frame, its laws in strict conformity with the character and circumstances of the nation which is to be bound by such laws ; and it is chiefly, therefore, when a country either conquers, colonizes, or otherwise acquires foreign possessions, that the questions now under consideration arise and demand attention. They arise in this shape : Is it or not expedient to introduce into the new dependency certain laws of the dominant or any other state ? For the purposes of the inquiry it had better be assumed that a

* Vol. i. p. 193 of edition of 1843.

perfect code of laws has been established in the dominant country, which code must be treated as the model; and an attempt must be made to ascertain what modifications will be necessary before such a code, or any part of it, can be safely transplanted to a foreign soil. Now, as already observed, the happiness of a people is not so entirely dependent on the peculiarities of their political institutions as some are willing to believe; and when considering the question whether the laws should be altered by which any community has been hitherto governed and to which they have been accustomed to look up with respect, it must be borne in mind that the evil of change is in itself very great, and that, even assuming that the laws proposed to be altered are very inferior to the standard by which they are compared, the remedy may yet be worse than the disease. This may be the case although there should be nothing special in the dependency itself to interfere with the introduction of the whole or certain parts of the model code. Assuming, however, that the laws prevailing in the acquired territory, or some of them, are so bad, *i.e.* so productive of mischievous effects, so injurious to the happiness of the subject, that, great as may be the evil of change, an alteration is clearly desirable, there are several matters to be considered before we are entitled to conclude that such changes may be safely and wisely effected by adopting at once

such parts of the standard code as are applicable to the particular case, before we can assume that laws admitted to be good when applied to one community will retain that character of excellence when transplanted to a strange soil.

The circumstances which render the introduction of foreign laws into a country difficult or inexpedient may be either of a physical or moral nature. Of the former the most important are climate, soil, and natural productions, and mental or bodily constitution; of the latter, the religion, manners, customs, and habits of the nation in question.

Climate, for example, may render one night's incarceration in a confined prison intolerable and even fatal. The soil may produce precious metals or fruits in great abundance, which may make special economical provisions and safeguards necessary. Peculiarities of bodily constitution produced by or combined with climate may render the performance of certain works impossible, and quite beyond the physical capacity of an effeminate race inhabiting a torrid region. The countries, again, that are occupied by men of sterner mould may, on that account, require more stringent political sanctions. Differences of religion, again, give rise to many peculiarities, which must be most carefully considered as having an important influence. In Oriental countries the distinctions of

caste, and a variety of customs which appear most extraordinary to a European, present most formidable obstacles to a legislator who would introduce into such countries the laws of a European community, at least without material modifications. Under the head of customs we may instance polygamy, which, if retained, would make it necessary to modify considerably the ordinary marriage laws prevailing in most civilized countries.

When Mr. Charles Hay Cameron was called upon, after having acted in the capacity of Commissioner of inquiry, to recommend a complete reform of the judicial establishment and procedure of the island of Ceylon, he had to contend with the following difficulty, which furnishes a good example under this head:—The natives of that island were to a great extent insensible to the obligation of speaking the truth, and perjury was a most common offence. This evil Mr. Cameron met by peculiar recommendations, obliging each party, at the time of pleading, to state, subject to cross-examination and punishment for falsehood, the names of the witnesses to be produced at the trial and the matters to be proved by them respectively: he recommended also that process should not issue for the production of any person or document without the previous sanction of the judge, and made a prior examination of the proposed witnesses by him a necessary preliminary to a civil suit.

In the course of this Ceylon inquiry there occurred an amusing illustration of the manner in which the peculiar customs of a nation alter the "*circumstances influencing sensibility*," and thus affect not only the allotment of reward and punishment, but exercise a certain influence on legislation generally. "The same event which would produce pain or pleasure in one country would not produce an effect of the same sort, or, if of the same sort, not in an equal degree, in another." * The natives of Ceylon, imagining that a Commissioner of inquiry, whose authority emanated directly from the Crown, must have the power of *redressing* as well as of investigating all abuses,† sometimes laid their complaints before Mr. Cameron; and a native chief, who aspired to the honour of being preceded by a kind of drum called a *tom-tom*, concluded a pathetic appeal for the restoration of this much valued privilege by this observation, "For, sir, what is life without tom-toms?"

The truth is, that the neglect of these small matters is one of the most prolific sources of discontent in the government of a dependency; and many a country has revolted which might perhaps have been saved at the expense of a *tom-tom*.

* Bentham, vol. i. p. 172.

† In this respect they seem not to be singular. Our Ionian subjects appear to have fallen into the same error.

The laws imposed by the English on their colonies and dependencies, especially in the early periods of their history, were perhaps very rarely dictated by a disinterested regard for the welfare of the latter; and laws have been imported from the dominant country with an utter neglect of the principles which should regulate the transplanting of laws. But the institutions introduced by the Spaniards into the countries conquered by them produced political fruits which perhaps present the most striking example the history of the world affords of the misery and ruin which may be generated by neglecting common precautions in the transference of institutions from one locality to another, differing from the former in many of the particulars which have been above adverted to.

Of all the types of ancient civilization with which the records of past transactions have made us familiar, the institutions of the Incas of Peru are perhaps the most curious. We have here exhibited to us a most artificial system, which treated a whole nation as children and regulated almost every duty of life, if not every human action, by positive law or official ordinances; but the people were a simple race, and seemed to have enjoyed great happiness and many of the advantages accruing from an advanced stage of civilization under the mild sway of their native rulers. The whole of this patriarchal machinery

was ruthlessly destroyed by their conquerors; slavery was introduced, and tasks imposed by avaricious and cruel task-masters which greatly exceeded the physical powers of an effeminate and enervated race. Then, again, the Spaniard, who "conquered to redeem," endeavoured, by measures amounting almost, if not quite, to absolute violence, to impose the whole paraphernalia, all the elaborate ceremonials of the Roman Catholic faith, on every nation of North or South America which had the misfortune to fall beneath his yoke; and, as if this were not enough, he sometimes enforced conformity to its tenets through the agency of a tribunal which may be pronounced to be one of the greatest scourges which ever afflicted the human race.*

These however are illustrations of an extravagant disregard of all precautions; we pass to instances which are more in harmony with the conduct which is likely to be pursued in our more enlight-

* Codicia y pérfida saña
 Crearon ese instituto,
 Que á cien reinos dando luto,
 Despuéblaselos á España.
 Con la sospecha por guia,
 Ciego tribunal sentencia
 Rigores á la inocencia,
 Perdon á la hipocresía,
 Propicio al denunciador,
 Contrario del acusado, &c.

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ened age ; which does not ordinarily set utterly at defiance all those considerations to which we have alluded.

Diversities of religious belief present perhaps the most formidable difficulties to an enlightened ruler, who, actuated by feelings of disinterested benevolence and love to his species, would fain impart to a comparatively uncivilized race some share of the benefits arising from the better laws which his own country possesses. The nation in question may enjoy a considerable amount of happiness, and even a bastard kind of civilization. There may be no cannibalism, nor usages of any kind prevailing which are characteristic of barbarism ; yet there may be superstitious customs, the natural progeny of a barbarous religious creed, or other practices, from which an enlightened ruler recoils with horror. The self-immolation of widows on the tombs of their deceased husbands in India, the exposure of children in China, the slaughter of prisoners in cold blood as victims to the gods in ancient Mexico, are illustrations in point.

The question arises, How are these matters to be dealt with ?

The English, though fanatical enough at home during the dark ages of their history, and with respect to Ireland down to comparatively recent times, have paid considerable regard to peculiarities of religion and customs in the government of their

foreign dependencies. In British India in particular they have, in the opinion of some, tolerated too long the superstitious practices of their subjects, and upheld usages which might with safety to their empire have been long ago abolished.*

It must not be supposed that it is only in the government of semi-barbarous dependencies that mischiefs have resulted from an improper interference with peculiarities of religion, customs, and so forth: the same causes have produced much misery even in Europe. The Spaniards meddled with a strong hand in matters of religion, and lost some of the fairest provinces of their empire by so doing, after inflicting an enormous amount of evil on their suffering subjects. So again that fanatical French monarch, who but ill deserved the epithet of "*great*" which his contemporaries bestowed on him, the bigot Louis XIV., drove the best and most industrious artizans out of his kingdom, by an outrageous breach of a solemn engagement to tolerate their harmless creed.

"Before Montesquieu, a man who had a distant country given him to make laws for would have made short work of it. 'Name to me the people,' he would have said; 'reach me down my Bible, and the business is done at once. The laws they

* This paragraph was written before the mutiny in India, and represents opinions commonly expressed before that event was known.

have been used to, no matter what they are, mine shall supersede them; manners, they shall have mine, which are the best in nature; religion, they shall have mine too, which is all of it true, and the only one that is so.' Since Montesquieu, the number of documents which a legislator would require is considerably enlarged. 'Send the people,' he will say, 'to me, or me to the people; lay open to me the whole tenor of their life and conversation; paint to me the face and geography of the country; give me as close and minute a view as possible of their present laws, their manners, and their religion.'"*

The author last cited gives† many striking examples of circumstances which might have to be taken into more or less account by a legislator in transplanting laws from his own to another country; but the principles to be observed in this most delicate operation seem to have been almost sufficiently elucidated by that which has preceded; and it would be an endless task to attempt to enumerate all the facts which might exercise some influence on the decision of an experienced jurist when called upon to legislate under the circumstances in question. It must be remembered, however, that the problem almost always presents itself in this shape:—There being such and such

* Bentham, vol. i. p. 173, in note. . † Vol. i. pp. 173-7. ,

laws already subsisting, which are admitted to produce more or less of the good effects derivable from positive laws, how far ought a new law or new set of laws, more or less inconsistent with them, to be established? Bentham lays down * the following maxims :—

First. No law should be changed, nor usage abolished, without special reason; unless some specific assignable benefit can be shown as likely to be the result of such a change.

Secondly. The changing of a custom repugnant to our own manners and sentiments, to one which is conformable to them, for no other reason than such repugnance or conformity, is not to be reputed as a benefit.

Thirdly. In all matters of indifference, let the political sanction remain neuter, and let the authority of the moral sanction take its course.

Fourthly. The easiest innovation is that which refuses to a coercive custom the sanction of law.

Fifthly. The clear utility of a new law will be as its abstract utility, deduction being made of the dissatisfaction and other inconvenience occasioned by it: and that dissatisfaction varies in the compound ratio of the number dissatisfied, and its intensity and duration.

Sixthly. Indirect legislation should be preferred to direct—gentle means to violent.

* Vol. i. p. 181.

Seventhly. Enact first the laws which, when established, will facilitate the introduction of others.

Eighthly. If slowness in the operation of a law obviates dissatisfaction it may be a benefit.

The lapse of time, as has been said, alters national characteristics; and the influence of such of the changes as might result from the progressive growth of civilization has been in part considered where mention was made of the benefits of an enlightened public opinion, a free but not licentious press, and so forth. The subject of the alterations induced by time has been discussed by Bentham with his usual ability in the fifth chapter of his *Essay on the Influence of Time and Place in Legislation*,* which may be consulted with profit. The general result of the author's conclusions has been already stated in that extract from his work in which he informs us to what class of laws he would most readily attribute the prerogatives of universality and immutability:† it may be added that this author seems to be most unwilling to admit the justice of the common notion, that many of the laws which we are accustomed to regard as good and wholesome when propounded as the rule of conduct in civilized communities, would be inapplicable to a nation in a state of comparative barbarism.

* Vol. i. pp. 188 *et seq.* † See page 111.

The truth is, that to estimate properly the effect of the advance of civilization on government is a task of great difficulty; and the rather that in this stage of the world's progress we can hardly be said to be in the possession of sufficient data to guide us to a safe conclusion.

There are very few nations indeed which can be termed *advanced*, in that sense in which a real lover of mankind would wish to employ the term. At the present time (1857) there are scarcely any of the communities into which the human race is divided in which liberty of the press exists as the term is understood in this country; and yet, if experience teaches us any lesson on the rationale of government more forcibly than another, it is this, *that when the moral sanction attains a certain amount of force, all other sanctions are comparatively of little moment.*

It is clear that positive laws enforced by a political sanction, *i. e.* by a scale of rewards or punishments legally imposed, are a means and not an end. If the happiness attainable in this sub-lunary state could be procured without them through the agency of the restraint imposed on men by any one or all the other sanctions, it would be an unprofitable waste of human suffering to have any positive laws at all.

Now, when any nation has attained to that stage of progress which now characterizes the

English nation, it may be pronounced to have nearly if not quite reached that point at which either the moral sanction alone, or that combined with the religious, has acquired a force sufficient to supersede the political, as a means of coercion, *among a certain section of the individuals composing it.* A very little reflection will satisfy us that the last qualification is necessary. It is plain that the force of the various sanctions can never be equal among different classes in the same community; not only because those classes are in fact in different stages of progress, but because, as has been well remarked by Mr. Austin, the public opinion which influences action and restrains from crime is not so much the general opinion of the whole nation as the sentiments of the narrow circle within which each member of it revolves. With respect to that unhappily numerous class which pursues crime as a profession; on the one hand, that kind of public exposure which would operate as an effective check in the case of the comparatively virtuous is perhaps, at least by those guilty of the greater crimes, regarded with complacency, as gratifying that morbid love of notoriety, even at the expense of honour, which is known to distinguish those misguided men; and on the other hand, the action itself might be viewed with a certain amount of favour by that degraded section of society with which the life

and occupations of the wrong-doer bring him into daily and hourly contact. How much of what is now unintelligible to many is rendered clear by the above considerations!

Until, therefore, a community has been nearly purged from such human impurities, it would seem impossible to dispense with the operation of the political sanction; a corrupt nucleus of malefactors will remain who can be controlled by penal legislation alone. It would seem therefore that the political sanction is necessary in every society as long as there exists a class of men therein to whom the prospect of the loss of reputation carries with it no terrors, or at least not such as are sufficient to deter from crime.

It is not enough, however, that there should be a wholesome dread of infamy; means must be provided by which disgrace shall surely and speedily follow the commission of the offence: there may be those in a community who are tremblingly alive to any even the smallest taint upon the unspotted surface of their integrity or honour; and yet the chance of any spot being observed, or, if observed, of being viewed in its true colours, may be so small as to strip Virtue of those powerful defences which she derives from a conviction that loss of reputation will quickly follow any deviation from the path of rectitude.

There was never probably any class of men more

nervously sensitive on the point of honour than the Spanish nobles ; but the records of history show that this quality did not prevent their commission of many grievous crimes in a country where, and at a period when, the laws had little force, public opinion was led astray by false notions, and its proper influence had hardly begun to be felt.

There are many doubtless in England at the present day who might not feel as keenly as a Spanish grandee of the olden time the smallest taint upon their personal honour, but would recoil with horror from a proposal to take summary vengeance on a neighbour by force of arms. And why is this ? It may be traced to many causes, but among the most important are the following :— First, the progress of civilization has produced a more wholesome state of public opinion ; and secondly, there exists a method by which such conduct would not only be punished, but instantly exposed, and a fearful retribution would quickly follow.

Now the most effectual means for securing immediate public exposure is the existence of a free press : it is in vain to establish a police for the apprehension of offenders, or courts for their trial and punishment ; it is in vain that certain moral offences should be visited with general reprobation, if no method be provided for making

disgrace notorious as soon as the offence has been committed. The above examples illustrate the fact that the progress of civilization is productive of two great changes, both of which must necessarily exercise great influence on the course of legislation in any age or country. In the first place, social development, one of the most important results of progress, must necessarily teach men to discriminate more clearly between that which is good and evil, considered in reference to the principle of utility; and secondly, the moral sanction derives increased force from the certainty of disgrace following quickly upon the heels of the offence.

One important result of human progress will, therefore, be the enactment of better laws—laws better calculated to promote the happiness of the greatest number; and in proportion as society advances the moral sanction will gradually extend itself more and more widely among all classes of the community. Another result of progress may be that the religious sanction will acquire increased power, or the *moral sense*, a lower order of sanction, but one which acts as a substitute for the former, or as a powerful coadjutor, in the case of those on whom religious truths take a less firm hold, but who are keenly alive to the importance of promoting general happiness. When this epoch has arrived, education will be properly encouraged; the condition of the

poor will be further ameliorated; means will be provided for reforming our juvenile criminals; and other measures *preventive* of crime adopted. Whether mankind will ever in any large community attain to such a state of perfection that the moral and religious sanctions alone, or one of them, will suffice to deter from evil and secure happiness, may reasonably be doubted. In small communities, indeed, there have been already instances of the religious sanction operating as an almost perfect restraint upon crime. Of this the most curious instance is the Pitcairn Islanders,* a community sprung from a body of lawless mutineers, but affording an interesting example of purity of manners and conduct. The moral sanction has, however, probably influence, even in this very limited community of about two hundred persons.

It is very difficult to look forward into futurity, and foreshadow all the fruits of the world's progress. The experience of history would lead us to expect many retrogressions, to anticipate the annihilation of great and flourishing monarchies, the repeated destruction of advanced civilizations, and mankind forced to begin the weary round again: on the other hand, the invention of printing must be at least productive of this result, that, though national power may pass from the

* Now removed to Norfolk Island.

hands of the present dominant communities to others, the great intellectual stores accumulated by successive generations of the most able thinkers in all languages will still survive the wreck, and be ready to resuscitate immediately that civilization which may possibly for a time have passed into abeyance in one or more societies. Moreover, as there seems no probability at present of any *one* nation attaining universal rule, annihilation of the power and pre-eminence of any, even the most civilized, would still leave many remaining on which its mantle might in time descend.

Among the advantages which may result to mankind from the advance of civilization, Bentham, in that chapter* of his work to which reference has been already made, mentions reforms of the law, "when the catalogue of prohibited acts shall no longer contain actions the evil of which is imaginary; when rights and duties shall be so well defined that there shall be no suits arising on points of law; when the system of procedure shall be so simplified that disputes on matters of fact shall be terminated without any other expense or delay than is absolutely necessary; when the courts of justice, though always open, shall be rarely resorted to; when the law shall be concise, intelligible, without ambiguity, and in the hands of every one." He mentions, also, the disbanding

* Chapter V. vol. i. p. 188, &c.

of armies by mutual consent, and consequent diminution of taxation, freedom of commerce, and the perfection of constitutional law.

Among the physical changes which may exercise some influence on the proceedings of the legislator, the same distinguished jurist notices alterations of the physical appearance of the country, such as the drying up of lakes, the diversion of the course of rivers, and so forth, arising from natural causes and such changes as may be introduced by art. No one, however, writing at that period, could have foreseen the stupendous improvements which Science and Art combined have effected within the last thirty years of human progress. The development of the railway system and the invention of the electric telegraph must undoubtedly exercise a most important influence on the government and legislation of all communities which adopt or participate in the benefits of these wonderful inventions. The effect will be greatest in countries such as England, which have many distant dependencies, rapid communication with which is necessarily an object of paramount importance. A voyage to India thirty years ago often occupied six months, and an answer to a letter addressed to that country was seldom received under a period of ten months; when a journey to India shall be performed in fourteen days, and a reply to a message sent thither

received in as many minutes, the government of that very distant country will become easier, so far as distance from the seat of dominion is concerned, than that of our Mediterranean dependencies at present.* There is great reason to hope that many years will not now elapse before events, which even to the last generation would have seemed fabulous, will come to pass.

The extent to which government will be facilitated and the course of legislation modified by the advancement of science and art opens a very wide question. In our ignorance of the direction which the progress of discovery will take, it is possible to foresee only a very small part of the effects likely to be produced; but it would seem that an important revolution in the art of war is likely to be brought about by such means. Every day almost gives birth to some new engine of destruction calculated to make warfare more destructive to human life, and therefore shorter in its duration. It appears to be generally admitted that the use of steam as a motive power has, to some extent, impaired the security derived from the insular position of England; but, on the other hand, the application of machinery and mechanical inven-

* Since this was written the electric telegraph has contributed greatly to preserve to us our Indian empire. There is little doubt that, had proper encouragement been afforded to abstract scientific inquiry, the telegraph to America would long ere this have been successfully established.

tions of various kinds to the manufacture of warlike implements must redound greatly to the advantage of a country possessed of so much capital and such boundless mechanical resources as our own. Much evil, however, results from the distrust with which the recommendations of real proficient in science are sometimes received, and the encouragement given to pretenders; from the want, also, of any legitimate means by which the opinion of the most trustworthy can be brought to bear upon the course of the Executive. There being no Institute or Academy, or analogous institution, in this country, recognised by Government, having official existence, and therefore entitled to speak from authority,* the Government are exposed to all manner of indirect influences; while applications for advances of money for the promotion of researches of the greatest interest and value, by bodies of men thoroughly conversant with the subject-matter and convinced of their utility, are contemptuously declined, large sums may be, on the other hand, granted at the suggestion of an individual who happens to have the ear of some one possessing influence, for the promotion of objects of very questionable advantage. The funds now annually granted by the Par-

* The nearest approach to this is the Board of Visitors of the Royal Observatory at Greenwich, and the Trustees of the British Museum; but their functions are necessarily limited.

liament of this country for the promotion of intellectual progress in some form or other amount to a very large sum ; but the machinery provided for their administration is sadly defective, and the whole subject affords a very striking illustration of the careless method in which we in this country deal with important matters which arouse no party feeling, trusting to chance or to the necessities of the time for perfecting that organization which ought to have been elaborated *à priori* by the most able and skilful of those competent to be intrusted with the direction of public affairs.

.Everything which tends to obstruct intellectual advancement, and under that category we must include the mal-organization last referred to, must be considered as a counteracting cause arresting the progress of civilization ; but this is merely a question of time, it must at last overleap such obstacles, and the questions remain,—What is the limit of intellectual advancement and civilization to which the human race is tending? How far will the attainment of that limit, or of the successive steps or landing-places on which society reposes in its painful ascent towards the highest pinnacle, affect the questions of Government and Legislation? To the preceding observations, which bear on this subject, a very general description only can be added of the kind of results which may possibly flow from that beneficial

revolution in human affairs which time may produce.

The perfection of those inventions which tend to annihilate time and space, and all that renders government less costly and saves capital, promotes the expansion of commerce, and diminishes poverty. This increase of wealth, by placing the means of improvement within the reach of the less fortunate class, will increase knowledge. The extension of knowledge will insure the gradual, though it is to be feared slow, destruction of those existing opinions and prejudices which arrest the course of improvement and tend to keep mankind stationary. Such knowledge will include the recognition and appreciation of the doctrines of economical science; and when these are understood and appreciated by artizans and operatives, they will be in possession of a key to material prosperity; antagonism of classes will then cease, and the many good effects arising from this will be enhanced by that moral improvement, the sure offspring of intelligence, which will deter them from wasting their hard-earned gains in sensual indulgences. The Working Man's College and adult school will then possess more attractions than the gin-palace or beer-shop; and whatever amount of absolute wealth each member of the community may then possess, he will have learnt to employ it well, and to prefer intellectual to

sensual enjoyments. When the general tone of society has been thus far raised, such men as we have described will not be content to grovel in the cellars of crowded towns, if for no other reason, because self-respect, the moral sense, and the standard of excellence will all be raised proportionably. While those who live by their daily labour thus advance in knowledge, we may hope that those above them will not only not remain stationary, but proportionably improve their acquirements.

Upon the whole it can hardly admit of doubt but that new phases of society will give rise to new demands upon the ingenuity of the legislator. Let us then consider the effect of its progress upon legislation, arranged under the various heads into which a code of law may provisionally be considered as divided.

For the present purpose the whole municipal law may be disposed under the following eleven classes :—

1. The Constitutional branch.
2. The Financial.
3. That which relates to Public Economy.
4. Personal Rights.
5. Proprietary Rights.
6. Religion.
7. Commercial Affairs.
8. Police, Civil and Military.

9. Criminal Law.

10. Colonial Affairs.

11. Foreign Affairs.

First. In the Constitutional branch alterations ought doubtless to be made, and from time to time, with a view of conferring a greater amount of political power upon those who have qualified themselves to exercise it, both by improving their position in society, and by adding to their stock of knowledge; but it by no means follows that any organic change in the constitution of the executive or legislative bodies should ever become necessary or expedient; nor will it possibly be demanded. As the world becomes better informed on political subjects, men will perceive that they have been led by a natural prejudice to ascribe a larger share of the social advantages which they enjoy to the mere form of their particular government than is due to it. With increased intelligence they will therefore become rather solicitous for other alterations in the laws, to which reference will presently be made, than for the enactment of Reform Bills, or measures of that nature. When all are happy and contented, political revolutions cannot take place. As men also advance in knowledge their reasoning powers will be cultivated, and they will by degrees discover the falsehood of many political fallacies which now pass current for truths among certain

sections of the community; and it is chiefly in the discussion of social and political subjects that the most mischievous fallacies exhibit themselves.

Secondly. The Financial laws are likely to be greatly ameliorated when economical science shall have taken firm root in cultivated minds; when it shall have become a reproach to the educated, nay, to any class, not to be well instructed on such a subject; and when its main principles have become more generally diffused and understood. At present Finance is a science to which few pay any attention, and many of those who have a professional knowledge of some branches of the subject have not studied at all the details of the imposition, levying, and collection of the public revenue. All these matters will doubtless be greatly improved as a knowledge of the true principles of financial economy becomes more rife. We may expect that in the three great branches of customs, inland revenue, and taxes, the cost of the collection will be *minimized*, and the competency of the officers *maximized*, to use a favourite expression of Bentham. Great improvements will doubtless be effected in the tariff of duties, and in the mode of raising them. Those excise regulations which interfere injuriously with domestic industry and the employment of capital will be modified; and as the theory of taxation is perfected the revenue will be collected

at a less proportionate cost in money and vexation to the nation at large. That difficult problem of the imposition of an equitable property-tax may perhaps be proximately solved, and assessed taxes may be so levied as to fall wholly on luxuries, and not to interfere at all with necessities.

Thirdly, Fourthly, and Fifthly. Under these three heads the laws will no doubt receive ameliorations, but they embrace too vast a field to enter upon with profit, especially in our ignorance of the exact form which society will assume in its ultimate state. One may, however, confidently affirm that every internal improvement which has a tendency to increase the sum of general happiness is likely to be adopted. A great alteration may be anticipated in those laws by which women are placed under a disadvantage as compared with the other sex; * such, for example, as define their rights while under the disability of coverture.

There is great room for improvements, which will no doubt be adopted, in those laws which regulate the sale and transfer and the title to land; and that difficult question, the registration of the conveyances and charges affecting real property, will receive an appropriate solution.

Allusion has been already made to several other

* This was written before the passing of the late Divorce Act, a step in the right direction.

ameliorations which may be advantageously introduced into our municipal code.

Sixthly. In the laws which relate to religion the general character of the changes likely to be introduced is not perhaps so difficult to foresee; for assuming that the happiness of the greatest number will be the end always kept in view by the legislature, it follows that the new laws enacted will annihilate at once, and for ever, every remnant of disability attaching to the conscientious profession of any religious belief, and will complete in every particular the work so auspiciously inaugurated in 1829, when the Roman Catholic Relief Act was passed. The legislature will, in short, wage as determined a warfare against fanaticism as in the sixteenth and seventeenth centuries it waged in its behalf; and that fruitful source of discord and misery, the quarrels between the members of different religious sects, will be forever stopped.

Seventhly. The commercial branch of the law is perhaps likely to be more improved by judicious abstinence from legislation on commercial matters than in any other way that can be named: at the same time there are measures which may be suggested which would confer great benefits on trade and commerce; such, for example, as the institution of Courts of Arbitration, in which merchants and traders of eminence should act as judges,

or at least as assessors ; the establishment of a universal and decimal system of coins, weights, and measures ; the improvement of the banking and joint-stock systems, and of the insolvent and bankrupt laws. In the state of society we are contemplating, the commission of those frauds on a gigantic scale with which society has of late been astounded is not to be assumed as possible ; but the whole subject of insolvency is so surrounded with difficulty that probably a long period will elapse before anything resembling a perfect system of laws on this subject will be attained.

Eighthly. In that branch of the laws which relates to the police, civil and military, it would seem that these preservers of order at home and abroad might to some extent be dispensed with in proportion as society approaches nearer to perfection ; but still human progress must be assumed likely to stop short of that point, and there will remain some internal disorders to repress ; such being the case, an internal police will be maintained, and experience will no doubt dictate progressive improvements in its constitution, so as to maximize its efficiency, and minimize its cost and any abuses connected with it. Again, with regard to external disorders, or such as arise out of our foreign relations, we must bear in mind that it would be absurd to suppose that all highly civilized communities will advance towards perfection *pari passu* ; and

respects their relation to the dominant country, is even now happily approaching to that state in which the supremacy of the latter may be pronounced to be rather nominal than real; it may, therefore, be predicted with tolerable confidence, that when the epoch above alluded to has arrived, countries now dependent on England, if not absolutely independent, will at least have arrived at the point in which interference in their concerns by the mother country will no longer be attempted, except, perhaps, in some very special cases occurring at rare intervals, in which the collective interests of many of the countries subject to British rule are materially concerned, such as the proposal for effecting a Federal Union between the North American Colonies.

Eleventhly. The subject of foreign affairs has been already cursorily alluded to in speaking of a military police. Though it is perfectly true, as before explained, that such gradations as now subsist between civilized and comparately uncivilized countries will continue to prevail after some one or more of the most advanced communities have attained the point of quasi-perfection, yet it cannot be but that their relations and the laws and institutions affecting them will be greatly modified by the progress of intelligence which must accompany the advance of States to maturity. For example, in former ages the negotiations of ambassadors

were only another name for a system of fraud and trickery which was a disgrace to humanity. As civilization has advanced, it has been discovered that the maxim "Honesty is the best policy" is applicable to the conduct of ambassadors as well as to all the other transactions of mankind; and they would no longer make it a point of professional boast that they had overreached their rivals by trickery of any kind, or even by advancing at the commencement of their negotiation claims and pretensions that the wildest visionary could never have expected to see admitted: yet it may even now be deemed to be good policy to ask more than what will satisfy the State represented. The advantage of this course may be doubted after a character for integrity and plain dealing has been well established, and instances may be cited in which great success was attained, even in early times, by methods of proceeding such as no honest man would blush to own. The treaty concluded in 1479 by Isabella the Catholic, after a short negotiation, with the Infanta Doña Beatrice of Portugal, may be cited as an example of what may be done in comparatively barbarous times by persons of integrity animated by the same praiseworthy desire of promoting the happiness of mankind. In the period to which reference has been made the general conduct of ambassadors was frequently very re-

prehensible: they often joined in intrigues against the Government to which they were accredited. Time has effected important ameliorations in this respect; and as society progresses, a higher tone of morality will render less necessary some of those laws which exist for the protection of a class which, if history has not exaggerated their failings, did indeed formerly stand greatly in need of some immunities and privileges to shield them from the natural consequences of their own acts. While on the subject of ambassadors a doubt may very reasonably be expressed whether the permanent residence of an ambassador at a foreign court always tends to the preservation of peace; and whether, in a very advanced stage of civilization, the institution will continue under its present form; that is, whether these ministers will remain, as now, *permanent residents* at the various courts. It would seem that most of their ordinary functions might well be performed by a less costly description of agent, and on great and abnormal occasions extraordinary missions might be despatched.

CHAPTER V.

ON LEGISLATORS, THEIR STUDIES AND
QUALIFICATIONS.

STUDIES.

THERE are no educational institutions, in this country, whose professed object is to prepare the future statesman for the performance of legislative and administrative functions ; there are no books which can in strictness be said to have been written with a special view to this end ; and thus the noblest of all branches of knowledge must be picked up at hazard by all who aspire to know. There are works which treat of matters appertaining to government, but some discreet and unprejudiced person should be always at hand to instruct students as to the merits of writers, and the trustworthiness of the statements which their works contain. This is indispensably necessary in the case of a science in which national, party, or even local views and prejudices, glaring perversions of the art of reasoning, and unscrupulous misstatements of fact, often concur to entrap the ignorant and unwary.

Now where educational establishments and

teachers are not provided, the public are apt to believe there can be little or nothing to learn. Some of the effects of this illusion may have been often perceived in the careless and offhand manner in which questions demanding for their solution an accurate knowledge of the leading principles of social science are discussed in society and the senate.

When we seriously reflect on the nature of the functions which a statesman is called upon to perform, it would seem hardly possible, within the compass of an ordinary life, even for those gifted with consummate natural powers, to acquire more than a small portion of the knowledge necessary to enable him to perform his duties in a creditable manner.

Yet experience of the past would seem to contradict this conclusion ; history presents us with the names of men possessing apparently few, if any, of the necessary qualifications, and yet filling the post even of prime minister with tolerable success.

It may be that, flourishing at a time when the great principles of social science were known but to few, they managed so adroitly to adapt their conduct to the opinions or prejudices of the bulk of their contemporaries as to obtain from an ignorant public a certain measure of applause.

The bulk of our countrymen however will probably in no long space of time become far better

acquainted than they now are with the principles of social science, and be able to form a better judgment of the absolute and relative merits of their rulers: the question therefore arises, how, within the compass of a life, is that amount of knowledge to be acquired which will fit a man to guide the political destinies of a great and enlightened nation?

It would seem at first sight that such knowledge must be almost universal. On what subject may not the statesman be called upon to speak and legislate? The disheartening descriptions given by Cicero of the amount of previous study necessary to form an accomplished orator* will apply with equal if not greater force to the senator of modern times. What subjects should this knowledge comprise? Whence and how is it to be sought for and acquired? To these and other similar questions an answer may be expected, but a complete reply to them is perhaps impossible in the present state of our knowledge.

Let it be assumed that the student has received the education of an accomplished gentleman, that he is tolerably well read in ancient and modern classics, is acquainted with modern history, and

* *Est enim et scientia comprehendenda rerum plurimarum, &c. . . . ac meâ quidem sententiâ nemo poterit esse omni laude cumulatus orator, nisi erit omnium rerum magnarum atque artium scientiam consecutus. &c.*—*De Oratore*, lib. i. c. 5 and 6.

has studied logic and rhetoric ; also that he has some knowledge, however acquired, of the character, opinions, and habits of that nation in particular whose conduct he aspires to guide. Laws that are good for the hardy, sedate, industrious, and orderly Englishman may be bad for the Neapolitan, imaginative, slothful, prone to excitement, and ignorant of the principles and practice of constitutional government. It will be well also that the student should have his mind prepared for reasoning by a knowledge of at least the elements of mathematics and physics. He should then commence the study of the general principles of what may be termed Social Science, comprehending the Science of Human Nature, of Mind, of the Formation of Character, Ethics, and Political Philosophy, or the whole theory of Government and Legislation. Then the philosophical branch of history, which tells of the gradual progress of mankind, and his own nation in particular, in the knowledge and practice of all that constitutes true wisdom. "*Tenenda præterea est omnis antiquitas exemplorumque vis.*"*

The term "History" must be understood as including all that experience, considered as a guide to political conduct, teaches. This study of the Philosophy of History is in strictness included in that of Social Science, but the development of the

* Cicero, *ibid.*

empirical laws of that science from the history of mankind will generally follow the attempt to master its general principles. A certain amount of knowledge of the laws of his own country must be acquired, the “*jus civile*” of Cicero; not the mere technicalities, but the great principles of jurisprudence, and particularly the constitutional branch of the existing code.

Then the science of Political Economy must be studied, and the internal resources of the country, its population, trade, commerce, and manufactures, —in short, its general *statistics*, which are, in effect, a species of tabular history indispensable to the legislator, as it contains the facts on which his conclusions and measures must generally be grounded. Besides these statistics, which may be termed *general*, each particular proposed amendment of the law will, for the most part, be based upon certain *special* facts, a knowledge of which is a necessary preliminary to the proper framing of any measure which may be in contemplation. The general statistics of all countries are always more or less incomplete, and cannot, therefore, supply data for all the reforms which the progress of time may render expedient. In this country, in later times, and in the case of the reforms which have been duly matured, and where the details have been complicated, these special facts have been ascertained by previous inquiries by

Royal Commissioners or Committees of the Houses of Parliament; and this method of preliminary inquiry by Commissions may be characterized as a great improvement in the practice of modern legislation.

The institutions, history, and present state of our Colonial Possessions and Dependencies, open up another vast field of research; but a very general acquaintance with this branch of knowledge may be deemed sufficient.

A certain portion of time should also be devoted to the perusal of the speeches of eminent statesmen, from which the learner will derive the same kind of instruction which the artist obtains by seeing fine pictures or hearing good music.

This hasty sketch may be taken as describing generally the *home* education of a senator. But other countries are more or less connected by intercourse, commerce, and treaties of alliance with his own; and the statesman must not only be generally acquainted with the nature of the agreements entered into with those foreign societies—in other words, with the existing treaties or alliances which regulate the mutual intercourse of nations—but he must know something of that code of positive moral rules by which their conduct towards one another is influenced and, to a certain extent, controlled; in short, he must study “International Law.” To the

study of this code should be added a very *general* knowledge of the fundamental institutions of the most important of these foreign countries, greater and more detailed in proportion to the interest attaching to the country or its institutions. The trade between independent communities renders a more detailed study of the principles of political economy necessary than would have sufficed had no such intercourse subsisted. This science is a difficult one ; its principles are hard to master, and their application to all the various cases that arise in practice is embarrassing. We cannot have in politics, as in the abstract sciences, accurate definitions of all the words we employ, and the number of causes in operation capable of producing a given effect are so numerous that we are in constant danger of falling on the fallacy "*post hoc, ergo propter hoc* ;" a fallacy which lies at the root of many erroneous political arguments. In devising new measures in reference to commerce (and these, if really beneficial, will generally have for their object the removal of ancient restraints), a thorough knowledge of the principles of the science in question is indispensable.*

* There is a striking passage in the 'History' of Thierry, vol. iv., p. 169, edit. 1838, which illustrates very clearly the influence which economical considerations had, even at that early period, on the decision of the most important questions of state :—"Beaucoup d'hommes songeaient à réunir tout le sud-ouest de la Gaule en un état indépendant. Ce dessein plaisait à la

Assuming, then, that our student has the usual education of a gentleman, with some desirable additions thereto, there remain nine *principal* subjects of study, which have been already mentioned, and may be enumerated in the following order:—

1. Social Science.
2. The Political, or rather Philosophical, branch of General History.
3. Constitutional Law, and Principles of Jurisprudence.
4. Political Economy.
5. The Statistics of the Empire.
6. The Colonies and Dependencies of the Empire.
7. International Law.
8. The fundamental Institutions of the principal foreign States.
9. The more important Treaties and their history.

It is not, however, intended to assert that it is impossible for any one to distinguish himself in parliament who is devoid of any one or even several of the qualifications above described; their possession would indeed constitute a perfect pre-

classe élevée et aux riches bourgeois des villes de Guienne, mais le menu peuple tenait à la domination Anglaise, à cause de l'opinion généralement répandue qu'on ne saurait où vendre les vins du pays si les marchands d'Angleterre n'étaient plus là pour les emporter sur leurs vaisseaux." See also Froissart, lib. iv. chap. lxxix.

paration (so far as study can effect this) for a most difficult calling; but there are other means by which success may be attained. A great part of the information necessary for the discussion of the subject under debate may often be collected, after the question has been mooted, by those who have that facility, which an experienced statesman or an able practising lawyer possesses in perfection, of looking for and quickly discovering that knowledge which is immediately in request; and indeed this must be done by all to a certain extent, but perhaps those only will derive much benefit from these impromptu researches who have previously made themselves well acquainted with the various sources of information, and have considerable practice in turning data so acquired rapidly to account.

A considerable amount of information on some one or two important subjects, however acquired, the subjects being well chosen, is one mode of attaining influence, especially if it be accompanied by an almost exclusive devotion to those specialities; and on the same principle, professional speeches on professional subjects are listened to with respect, for the maxim "*cuilibet in sua arte credendum*" will always have and ought to have its due weight.

Much useful work is performed in Committees by men some of whom are unknown to the public

as *speakers*, men of business, who prefer serving their country in this quiet unobtrusive manner to consuming the time of parliament by harangues, containing words indeed, well arranged and well and fluently delivered, but not matter, and calculated to obtain applause only from those who are too ignorant to appreciate true merit.

“ A voce più ch’ al ver drizzan li volti,
E così ferman sua opinione,
Prima ch’ arte o ragion per lor s’ ascolti.”

The influence of fine speaking, as distinguished from eloquence properly so called, would seem to be on the wane; the world is beginning to see that the duty of promoting the happiness of mankind by sound legislation is a serious and truly responsible charge, and that its due performance does not depend upon the possession of oratorical skill, fine metaphors, and figures of speech, but of experience and knowledge accompanied by genuine kindly feeling, exhibiting itself in disinterested and continuous efforts to advance the welfare of mankind. The man who blurts out a few words only, if they be words of real wisdom, may confer more benefit on his country than the finest *orator* who ever caused the walls of parliament to ring with approving cheers.

1. *Social Science*.—As Ethics or Ethology comprise everything which relates to the formation of human character considering man as an individual,

so Social Science is conversant with mankind distributed in masses and constituting different sects, tribes, nations, or independent political communities, as the case may be. There is one work, and perhaps one only, which has treated this subject in a philosophical spirit, and that is the *Treatise on Logic* by Mr. John Stuart Mill; but this author cites the work of M. Comte, '*Cours de Philosophie Positive*,' as one entitled to great praise for the manner in which it has dealt with this very difficult branch of philosophical inquiry. But while these may be the only treatises which take a truly logical and comprehensive view of this vast field, there are many works from which important information may be derived on various departments of the social theory; as for instance Bentham's works, particularly his '*Fragment on Government*,' and '*Principles of Morals and Legislation*;' Austin's '*Province of Jurisprudence determined*;' Paley's '*Moral Philosophy*;' Locke's '*Treatise on Government*;' Hobbes's '*Leviathan*.' The study of the two latter may well be postponed till those works which were written in a more advanced stage of society are mastered, as the latter will convey to the reader more just ideas of the fundamental doctrines of the science, and save him from imbibing false opinions at the outset of his career.

Mr. Mill devotes the 6th and last book of his treatise to the logic of the moral sciences.

After treating of the vexed question of "Liberty and Necessity," he raises and discusses the question whether there may be a science of Human Nature, which he decides in the affirmative.

A chapter on the Laws of Mind is followed by one on Ethology, in which he speaks of what he denominates the *Empirical Laws* of Human Nature—that is, uniformities of succession or coexistence; such laws, in fact, as are obtained by observation only, without experiment, which in this case is impossible.

Such laws, he shows, are not to be depended upon beyond the limits of time, place, and circumstance in which the observations were made, and they are not entitled to be called scientific truths: such a title can only be given to the causal laws which explain them. He then shows that the laws of the formation of character cannot be ascertained by experiment, but must be studied deductively.

In the 6th chapter of this 6th book the author discusses the question whether Social Phenomena are the subject of science, which he also decides in the affirmative; and in the 7th and 8th he describes certain modes of investigating the social phenomena, which he condemns as inadequate. In the 9th he enunciates and describes his own method in the following terms:—"The social science, therefore

(which by a convenient barbarism has been termed Sociology), is a deductive science—not, indeed, after the model of Geometry, but after that of the more complex physical sciences. It infers the law of each effect from the laws of causation on which that effect depends; not, however, from the law merely of one cause, as in the geometrical method, but by considering all the causes which conjunctly influence the effect, and compounding their laws with one another. Its method, in short, is the Concrete Deductive Method—that of which Astronomy furnishes the most perfect, Natural Philosophy a somewhat less perfect example; and the employment of which, with the adaptations and precautions required by the subject, is beginning to regenerate Physiology.” *

It may be remarked, in passing, that there is a great analogy between the studies of physiology and social science, in respect to the difficulties which beset the inquirer's path, arising from the complexity of the data; and this complexity in both cases is due, in a great measure, to what, borrowing a term from physiology, may be called the *consensus* of the various organs in the one case—of the various causes in the other. In the human body all the various functions are so connected that scarcely any can be deranged without such derangement reacting on the others; in like

* Mill, 'Logic,' vol. ii. p. 474 *et seq.*, third edition.

manner, there is a consensus among all the phenomena or causes operating in society; and they act and react to such an extent on one another, as to render their investigation, in the present state of our social data, an exceedingly difficult, though not, perhaps, absolutely hopeless task.

In the same chapter Mr. Mill treats of Political Ethology, or the science of *National* Character, and of the Empirical Laws above referred to; also on the Verification of Social Science; which Verification is described in a former portion of the work as the third essential constituent part of the Deductive Method—that of collating the conclusions of reasoning, either with the phenomena themselves, or when such are obtainable with their empirical laws. But instead of deducing conclusions by reasoning and verifying them by observation, it is necessary to begin sometimes by obtaining them conjecturally from specific experience, and afterwards to connect them with the principles of human nature by *à priori* reasoning, which is thus a real verification.

M. Comte considers Social Science as essentially consisting of generalizations from history, verified by deduction from the laws of human nature. Mr. Mill thinks that this truth is enunciated too generally, and that there is considerable scope left in such inquiries for the direct as well as the inverse Deductive Method; that there are cases,

for example, in which it is impossible to obtain from observation an empirical law ; but these are fortunately the very cases in which the Direct Method is least affected by the objections arising out of the prodigious complication of the data. Again : where the method of Direct Deduction is inapplicable, we are able to obtain the best empirical laws. It is to be regretted that the general conclusions of the able work to which reference is now made are not more frequently illustrated by specific examples drawn from history, which would have added great interest to the discussions, and possibly tended somewhat to establish the conclusions.

In the 10th chapter of the same book Mr. Mill treats of the Inverse Deductive or Historical Method. He defines* what is meant by a *state of society*, enumerating the chief elements of which social phenomena are composed. These are the degree of knowledge, and intellectual and moral culture, the state of industry, of wealth and its distribution, the habitual occupations of the community, their division into classes and the relations of those classes, the common beliefs which they entertain on the most important subjects, and the degree of assurance with which they are held ; their tastes, their form of government, and more important laws and customs, &c.

* 'Logic,' vol. ii. p. 494 5.

Mr. Mill describes Social Statics as the science of the Coexistences of Social Phenomena, Social Dynamics as the science of the Successions of Social Phenomena ; and then proceeds to discuss the Historical Method, which introduces our second head of study.

2. *The Philosophy of General History.* — The preceding remarks will to some extent explain the connection between this branch of knowledge and social science. On this subject Mr. Mill remarks* that in order to obtain better empirical laws it is necessary to consider not only the progressive changes of the different elements or social phenomena, but the contemporaneous condition of each ; and thus obtain empirically the law of correspondence not only between the simultaneous states, but between the simultaneous changes of those elements. This law of correspondence duly verified *à priori* would become the real scientific derivative law of the development of human affairs. It would evidently be a great assistance if it should happen that some one element is preeminent as a prime agent in social movement.

Now the evidence of history and that of human nature combine, says our author, to show that the state of the speculative faculties of mankind, including the nature of their beliefs, is a social element which is predominant, and almost para-

* 'Logic,' vol. ii. p. 510-14.

mount among the agents of social progression. When any great social change has come to pass, it has had for its precursor a great change in the opinions and modes of thinking of society. This proposition is illustrated by the effects of Polytheism, Judaism, Christianity in its various forms, and the philosophy and positive science of modern Europe.

Thus according to this theory the order of human progression will mainly depend on the order of progression in the intellectual convictions of mankind, or the law of the successive transformations of human opinions; and the question is, whether this law can be determined, first, from history as an empirical one, and then converted into a scientific theorem by deducing it *à priori* from the principles of human nature. For this purpose we must take into consideration the whole of past time, for the progress of knowledge and changes in opinion are very slow, and manifest themselves only at very long intervals. This inquiry has been attempted by M. Comte alone, who conceives that speculation on all subjects of human inquiry has three successive changes; in the first it tends to explain phenomena by supernatural agencies, in the second by metaphysical abstractions, in the third and final state it confines itself to ascertaining their laws of succession and similitude.

Mr. Mill is of opinion that this generalization

lets in a flood of light on the whole course of history; but whatever may be thought of its value in this respect, it is at least a good illustration of the benefits which may possibly flow hereafter from the study of the philosophy of history.

After describing in the 11th chapter* the proper function of rules of Art and the nature of Art, as consisting of truths of science arranged in the order suitable for practical use, our author proceeds to the Doctrine of Ends or "Teleology;" and commences by observing that the definition of the end forms the peculiar province of art. The builder's art assumes that it is desirable to have buildings; the medical, that the cure of disease is expedient; and so forth: on the other hand, propositions of science assert a fact, an existence, a coexistence, a succession, or a resemblance.

In practice† every one should be required to justify both his approval of an end and the order of precedence which he assigns to it in comparison with others: for this there is need of general principles, which, together with the conclusions deduced therefrom, might form a body of doctrine constituting the Art of Life in the three departments of the Right, the Expedient, and the Beautiful or Noble in human conduct. The most elaborate exposition of the laws of succession and coexistence among mental or social phenomena, and of their

* Vol. ii. p. 517-18.

† Ibid., p. 523 *et seq.*

relation to one another as causes and effects, will be of no avail towards the art of life or of society, if the ends to be aimed at are left to vague suggestion, or taken for granted without analysis.

There must therefore be some standard by which to determine the value, absolute and comparative, of ends, or objects of desire ; and there can be but *one* ; otherwise the same conduct might be both approved and condemned.

Mr. Mill declines to discuss in his treatise the theory of the foundations of morality, but declares his conviction "that the general principle to which all rules of practice ought to conform, and the test by which they should be tried, is that of conduciveness to the happiness of mankind, or rather of all sentient beings." He therefore adopts the greatest happiness principle of Bentham, which has been already discussed. Mr. Mill, however, adds, that while the promotion of happiness should be the end of all actions, their justification and controller, it is not the *sole* end ; because there are many virtuous actions, and modes of action, by which happiness in the particular case is sacrificed. The justification in these instances is that, on the whole, more happiness will exist if feelings are cultivated, a certain nobleness of conduct for example, which make men in certain cases regardless of happiness.

The very question, however, What constitutes this elevation of character? must itself be decided by a reference to happiness as a standard.

With these and a few other remarks Mr. Mill concludes that exposition of his views on the Logic of the Moral Sciences which is contained in the last book of his valuable treatise; and no apology can be necessary for a detailed notice and description of a work which contains such interesting speculations on a science of the utmost importance to the welfare of mankind, and which should form the subject of the careful study of all who aspire to control their destinies.

All works which describe the gradual development of the constitution of any particular country may be important to the political student in a two-fold sense, both as aiding in the study of its constitutional law, and as constituting an important branch of philosophical history. Thus Hallam's 'Constitutional History of England' may be viewed both as a contribution to philosophical history, and as an able description of the rise and progress of that part of our laws and institutions to which the name "Constitutional" is given.

Among the works which may properly be consulted under this head of study may be mentioned Dr. Arnold's 'Lectures on History,' and M. Guizot's 'Civilisation de l'Europe,' as highly deserving a careful perusal. Also Lord John

Russell's 'History of the English Government,' and his Biographies of Statesmen.

Original historians have not generally recorded the peculiar manners, habits, and opinions of the nations whose actions they narrate: owing to their default in this respect, the political philosopher must often collect with difficulty part of his information as to the progress of civilization in any country from the works of poets and writers of fiction. Among the histories which have any pretension to be termed philosophical may be mentioned those of Thucydides, Tacitus, Gibbon, and Macaulay; all of which contain many facts and reflections which are quite worthy of being weighed with attention.

It is much to be deplored that so few of those who undertook the task of writing the history of their own times were competent to distinguish, among the mass of materials before them, the chaff from the wheat.

Many facts which were supposed to be *beneath the dignity of history* have thus been lost, while we have in their place dreary and heartrending accounts of the effects of the more conspicuous vices of rulers, in the shape of narratives of battles, sieges, and the like, as to many of which there can be no doubt that mankind would have sustained no very serious misfortune had all knowledge of them entirely perished. The truth is, that the

knowledge to be derived from such descriptions is best imparted by professional works, containing the views of those who are competent to inform the world on such matters; as, for example, 'The Commentaries of Cæsar,' 'The Wellington Despatches,' 'The Military Opinions of Sir John Burgoyne,' Napier's and Jomini's Histories, and so forth.

While our knowledge of political science teaches us how to select materials for history, a proper selection embodied in a philosophical history is an important aid in attaining that very knowledge.

It remains to mention some other works which may be perused with advantage by the student of Social Science and that branch of history from whence its data are to be obtained: these are—Clarendon's 'History of the Rebellion;' Sarpi's 'History of the Council of Trent;' Bolingbroke's 'Letters' on General History, on English History, and Parties, and that to Sir W. Windham, and also his 'Patriot King;' Montesquieu's 'Esprit des Loix;' the two first chapters of Gibbon's 'History;' Mackintosh's 'History of the Revolution;' Lord Brougham's 'Treatises on Political Philosophy,' and 'Biographies of Statesmen;' Guizot's 'History of the Revolution in England;' Guizot's 'History of Civilization in France;' and Lord Macaulay's 'History of England.'

3. *The Principles of Jurisprudence and Constitu-*

tional Law.—For the purpose of obtaining a competent knowledge of these branches of study, the student would do well to place himself under the direction of some eminent barrister, who has made both the general principles of law and the constitution of his own country the subject of his particular study; but if such advantages are beyond his reach, the following books may be mentioned, in addition to those before named, which may be perused:—The first volume of Blackstone's 'Commentaries,' in the best and latest edition; Chitty's 'Prerogatives of the Crown;' Comyn's 'Digest,' article 'Parliament;' Hatsell's 'Precedents,' 4 vols. 4to., Lond., 1796; May's 'Practical Treatise on the Law, Privileges, &c., of Parliament,' 8vo., 1859; Bentham's 'Political Fallacies;' Hallam's 'History of the Middle Ages;' Hallam's 'Constitutional History,' referring to the Acts of Parliament; the 'State Trials,' especially those during the 17th and beginning of the 18th centuries; Millar 'On the English Government and Constitution;' Justinian's 'Institutes,' and Gibbon's chapter on the Roman Law; Luder's 'Tracts on the Law and History of England;' Burnet's 'History of his own Time.'

4. *Political Economy*.—Under this head the books to be chiefly studied are—Adam Smith's 'Wealth of Nations,' in the edition of M'Culloch; Ricardo's 'Principles of Political Economy and Taxation;' Senior's Treatise contained in the

'Encyclopædia Metropolitana;' Mr. John Stuart Mill's 'Principles of Political Economy,' 2 vols. 8vo., 1848; Lord Overstone's 'Tracts on Currency.'

A diligent study of the above works would, doubtless, go far towards enabling the future statesman to steer clear of those rocks and shoals on which so many are shipwrecked who think the science of Political Economy unworthy of their attention. But success and proficiency in these difficult studies will depend upon natural aptitude and previous training; upon the degree in which the student has been successful in acquiring correct habits of thought and reasoning. The perusal of the above works must also be accompanied by an investigation of the—

5. *Statistics of the Empire.*—These may be collected from Parliamentary Reports and Documents, and the Reports of Committees, and such publications of the Statistical Society as refer to political subjects. A Treatise by the late Mr. Porter on this subject, 8vo., 1847, may also be consulted with advantage.

6. *Colonies and Dependencies of the Empire.*—On this subject the following works should be perused:—'An Essay on the Government of Dependencies,' 8vo., 1841, by Sir George Cornewall Lewis, Bart.; a work on the same subject by Mr. Roebuck; and such Reports of Parliamentary Committees and Commissions, and other parliamentary

documents, as illustrate the state of our numerous Dependencies. Mr. Charles Hay Cameron's work on the duties of England to India may be also consulted with profit by the philosophical legislator.

The battle-cry of colonial reformers of late years has been non-interference by the mother country with local self-government beyond that general superintendence implied in the right to nominate a representative of imperial majesty: the soundness of this principle can hardly be impugned.

7. *International Law*.—On this branch of jurisprudence the ponderous treatises of Puffendorf and Grotius may occasionally be consulted, but all that is really valuable will be found in the two treatises of Vattel and Wheaton. The former, written in French, is a book of great authority; the latter is in English and by an American who formerly filled a diplomatic situation. Mr. Wheaton's work is highly thought of, and is very valuable as containing modern treaties and many recent decisions on some of the most difficult questions that occur in public law; among others those arising out of a *conflictus legum*, a conflict between the laws of different states; a class of cases which, from the peculiarity of their Federal Constitution, is very abundant in the United States.

The student, however, who would attain proficiency in this branch of learning, should read the able decisions of Lord Stowell in the Admiralty

Reports, upon cases which occurred during the long war which followed the French Revolution ; also the decisions of the Judicial Committee of the Privy Council on cases arising out of the late war with Russia ; again, the speeches of distinguished statesmen and civilians on the more important international questions in dispute between the great powers from about the middle of the eighteenth century to the present time may be perused with profit.

8. *The Fundamental Institutions of the principal Foreign States.*—In common parlance the epithet of “ Great ” has been assigned to five independent states, viz. Austria, England, France, Prussia, and Russia ; and it will hardly be disputed that these powers, together with the United States, have during the last century exercised a far greater influence over the destinies of the world than any others.

The student whose object is to qualify himself to discharge the duties of a legislator with distinction should endeavour to obtain some knowledge of the leading institutions of France, Russia, Austria, and Prussia. The institutions of our Transatlantic brethren should not be neglected, both on account of their vast influence upon our own welfare, and because the working of the American constitution must ever be a spectacle of enduring interest to the philosophical British statesman.

It is to be lamented that there are scarcely any works which can be recommended to notice under this head. The student may however commence by reading the history of these countries in the 'Universal History,' which will be useful as a general sketch, and then proceed to peruse Sismondi and other Histories, not attempting to wade through the whole, but selecting the more remarkable epochs for peculiar study. He will find some notices of the nature of foreign institutions in two works already mentioned, viz. Wheaton's 'International Law,' and Lord Brougham's 'Treatises on Political Science.' The Code Napoléon should be examined, and such other works, including modern Travels, as contain any trustworthy information in reference to the fundamental institutions of France and the other countries named. The works of De Tocqueville will of course be perused, and those of M. Guizot have been already recommended, but little information on these important matters is accessible to the English student.

The catalogue of the splendid collection of books contained in our national Museum contains the following titles of works in foreign languages relating to this department of knowledge : *—

* This list has been supplied by Mr. Winter Jones, the able and intelligent head of the Printed Books Department of the British Museum.

Collection des Constitutions, Chartes, et Lois fondamentales des Peuples de l'Europe et des deux Amériques. Par MM. P. A. Dufau, J. B. Duvergier, et J. Guadet. 7 vols. 8vo., *Paris*, 1823-30.

Die Europäischen Verfassungen seit dem Jahre 1789, bis auf die neueste Zeit. Von K. H. L. Pölitx. 3 vols. 8vo., *Leipzig*, 1832-33.

Théorie du Droit Constitutionnel Français: Esprit des Constitutions de 1848 et de 1852. Précédé d'un Précis historique des Constitutions Françaises. Par F. Berriat Saint Prix. 8vo., *Paris*, 1851-2.

Des Constitutions de la France, et du Système Politique de l'Empereur Napoléon. Par Edm. de Beauverger. 8vo. *Paris*, 1852.

Explication du Code Civil. Par M. Bousquet. 4to. *Montpellier*.

Les Codes Français annotés. Par MM. Teulet et D'Auvilliers, et Sulpicy. 4to., *Paris*, 1843.

Die Verfassung und Verwaltung des Preussischen Staates. Von L. von Rönne. 4 vols. 8vo., *Breslau*, 1852.

9. *The more important Treaties, and their History.*—The history of Treaties will be contained to some extent in general histories; but with reference to the text of the treaties themselves, there are publications which may be consulted with advantage, as, *e. g.*, Jenkinson's 'Treaties,' in 3 vols. 8vo.; the Abbé de Mably's 'Histoire des Traités de Paix,' 3 vols.; and 'Recueil des Traités,' 4 vols. folio, Amsterdam, 1700.

Before concluding the subject of International Relations, to which the three last branches of study relate, it may be mentioned that both Vattel and Wheaton, and the earlier treatises on Public Law,

contain numerous references to works some of which may possibly be perused with advantage by those who desire to extend their knowledge of that subject; for example, Wicquefort and Bynkershoek, and the various treatises on the Functions, Privileges, and other Immunities of an Ambassador.

The list of books above given must by no means be understood as comprising all the information obtainable by a diligent student, but as furnishing a key by which he may be enabled to unlock, by degrees, the treasures of learning: almost every work will contain references to others, which may often be consulted with profit, both from their own value, and as a means of verifying the author's assertions who cites them. The classification of works, under specific heads, is necessarily, to some extent, arbitrary; and most of them, when consulted, will be found to contain information which throws light on more than one branch of Political Science.

QUALIFICATIONS.

It is assumed, of course, that the legislator possesses such moral qualities as are equally a desideratum in every station of life. Among his other qualifications, such knowledge as can be obtained by study must ever occupy a prin-

cipal place. But there are other accomplishments which greatly promote success in this distinguished career; among which may be mentioned that commonly called "tact"—a faculty partly natural, and partly acquired by mixing much in society and carefully studying the habits and characters of those with whom we associate. By the exercise of this accomplishment, the statesman or minister is enabled to influence the conduct both of friends and foes, to say and do the right thing at the right time, and generally to act in a manner becoming his position and high calling. By the exercise of this accomplishment, also, the young senator is enabled to escape shipwreck on many rocks and shoals on which the indiscreet, unwary, and self-sufficient are continually stranded and cast away. He refrains modestly from addressing the House till some time, say a year, has elapsed since taking his seat, and he has become conversant with its forms—selects that particular subject for his first address and for his "*battle-horse*" in which he most excels, and he has it in his power usually to choose his own opportunity. He confines himself, for the most part, to this his own *specialty*, like Cethegus, "*cui de republicâ satis suppeditabat oratio : totam enim tenebat eam, penitusque cognorat ; itaque in Senatu Consularium auctoritatem assequebatur.*" He is led to speak with a proper deference to the know-

ledge and experience of others. He abstains from frequently addressing the House, and especially at times when its attention is exhausted, or it is from any other cause unwilling to listen. He studies the character, feelings, and prejudices of his audience; and will not needlessly incur unpopularity by uttering sentiments which wound self-vanity, or are likely, for any other cause, to give serious offence.

Many of the qualifications of a distinguished advocate or judge are equally useful to the statesman, such as the capacity of weighing evidence brought forward for the purpose of establishing facts. A dignified demeanour, a good voice and delivery, are also quite as useful to the legislator as to the pleader. Distinguished success in professional or commercial pursuits always inspires respect; but when men engaged in trade have risen from the ranks, they cannot be expected to possess the refinement and elegancies of the accomplished University scholar or experienced lawyer. Bad pronunciation and solecisms in grammar will excite a smile in the most good-natured audience—in those who are in many respects their inferiors; yet such legislators often bring to their vocation qualities which render them valuable members. A life devoted to business imparts knowledge of mankind, creates a capacity of adapting means to an end, and that with the greatest economy of

time and labour. Men, also, who have spent many years of their life in the successful prosecution of any business, or in the active duties of a profession, have often had an opportunity afforded to them of watching the working of laws which either immediately or remotely affect their different pursuits—a knowledge which may often be turned to profitable account in legislating.

It is unhappily not unusual to see men really well-informed on some subjects, and subjects, too, which often engage the attention of Parliament, and therefore constantly yield them opportunities of distinction in their own walks, so indiscreet as to neglect them, or if not, at all events to make ill-digested speeches on various other matters, on which they are very inadequately informed, if not almost wholly ignorant.

This it is which often impedes the success of many distinguished members of the legal profession. Accustomed to speak in public, and daily address a most critical audience on matters which often require much previous preparation and research, they are apt to imagine it an easy task to impress with an opinion of their wisdom and eloquence men of whose intellect and acquirements they sometimes entertain a very moderate and much too low an opinion: yet many of their audience have at least the advantage of greater parliamentary experience, together with that

knowledge of the peculiarities of their auditors and of the *ways of the House*, which nothing but long experience and practice can confer, and for which a forensic education is far from being an adequate substitute.

It is probable, also, that the occasional failures of lawyers may be in part attributed to a want of due appreciation of the difference between the functions of the advocate and the senator: in the case of the former a certain amount of *varnish* and colouring of the facts, or, at least, extreme care in throwing into the shade all the unfavourable points, and placing in full relief the favourable, will be tolerated, perhaps applauded; in the case of the latter such conduct as this, or any attempt to do more than make a fair statement of the grounds on which a particular measure is called for, will meet with no favour. There are, however, many very splendid exceptions among members of the legal profession to the statement that their success is not always equal to the expectations which their previous forensic career has raised; and the examples of Wedderburn, Mansfield, Dunning, Romilly, Lyndhurst, Brougham, O'Connell, and others, are more than sufficient to justify the allegation that the Bar has given to the Senate some of its brightest ornaments.

Some advantage might possibly accrue to a young member from an exercise of the following

description. Let him, for example, when an important debate is expected on some matter of great public interest, in reference to which papers have been moved for and printed for the information of Parliament, carefully study these documents, and prepare and write out such a speech as he would deliver if compelled to address the House on the subject. This document should be composed with all the care and attention which he is able to bestow upon it. Having performed this task, he will have the advantage afterwards of hearing the manner in which the most accomplished statesmen of the period handle the same subject-matter, and of perusing their speeches when printed, and comparing them with his own. From these exercises even greater benefit should accrue than that which the legal student derives from having his draft conveyance or plea *settled*, as the phrase is, that is, corrected by his master, who converts the often rude attempt of the pupil into such an instrument as he himself would have prepared, and, by comparing this with his own rough draft, the student learns his profession.

On the important subject of the preparation of speeches, it is difficult for any one to offer suggestions which would be generally useful, for men's minds are so differently constituted by nature and education, that methods which would suit some might be fatal to others. Some speakers

may not be satisfied with merely writing out their intended speeches at length, but commit them to memory, or at least some of the most important passages, and especially the commencement and peroration; but the far greater number, probably, merely prepare heads or notes of that which they intend to say. The first method is attended by obvious difficulties in all cases in which the speaker does not commence the debate himself.

To advert to conduct in Committees. It is possible, by indiscretion, to give great annoyance to your colleagues. There are some members who, from a conscientious feeling that they ought not to decide before they thoroughly understand a subject, on which, at the beginning of the inquiry, they were perhaps wholly uninformed, attempt to educate themselves during its progress by a long series of interrogatories, some of which occasionally manifest so much ignorance as to excite a smile in the witness, and create a feeling of annoyance and vexation in the other and better-informed members: the result is that the business is unduly protracted, and the tribunal brought into discredit. Sometimes the member of a Committee will absent himself for several days from its inquiries, and attend after a long interval, when he has lost the opportunity of hearing several technical terms and other matters explained, with which his col-

leagues have made themselves familiar. They are then naturally annoyed when called upon to sit in silence and to waste their own time while the long-absent member is completing his education by putting questions to which the witnesses have already given replies.

Among matters which are not common to both Houses of Parliament, the most important is the responsibility of members of the House of Commons to a constituency.

It would be difficult to state to what extent the fact of this representation is likely to render any modification of the studies and qualifications of the senator necessary or expedient: for constituencies are doubtless infinitely various in their composition and requirements, and in the degree to which they are disposed to exercise, or attempt to exercise, control over the free will of their representatives.

If members should ever be induced thereby to propound opinions which are not their own for the purpose of pleasing others, it is much to be deplored; they certainly are sometimes tempted from this cause to speak more often than a due regard to their parliamentary reputation would warrant, in order to gratify the desire of an ambitious constituency anxious to see their representative's name in print. Members of the Lower House who are thus urged to imperil their fame would do

well sometimes to resist, and remind their supporters that there are other ways besides making long speeches by which Members of Parliament may serve their country very effectively, viz., by constant attendance in the House, and serving diligently in select committees, and bringing to their assistance all the information which they possess on any subject which may be under investigation. While alluding to these Committees, it is well to mention that the name of a useful and intelligent Member of Parliament may often be acquired by serving on some select committee which happens to be engaged in an inquiry into subjects on which the young member may have access to superior information: the inquiry may relate, for example, to some matter affecting the profession to which he belongs—to some institution with which he is connected, or to subjects into which he has already himself inquired in the capacity of a Commissioner or Inspector; in these cases he may be able to give most important aid; and no member should neglect any opportunity of showing that he has knowledge that can be turned to useful account.

Other embarrassments result from the peculiar nature of the relation subsisting between constituents and their representative, who, during the progress of a severely-contested election, is often entrapped into making large promises difficult to

perform. As to applications for offices, it is to be hoped that the late admirable institution of open public, and, in some cases, competitive examinations, will mitigate, if not wholly abolish, this evil. These solicitations must often place the member in a most painful position. Either he must do violence to his conscience by requesting an office for persons who are incompetent, or whose qualities are, at least, imperfectly known to him, and, in so doing, lay himself under obligations to the Government, which fetter his free political action, or he must refuse and offend his supporters. Analogous evils flow from requests for the support of local Bills of doubtful character.

There is an important difference between the two Houses of Parliament in the conduct pursued towards an unwelcome and unpopular speaker who persists in addressing them. In the House of Lords he is generally allowed to talk as long as he pleases, but no one listens: in the House of Commons he is often coughed or hooted down by cries of "Question" or other tumultuary interruptions.

Those who have not extensive experience of both the systems are incompetent judges of the relative efficacy of the two remedies, either in accomplishing the object immediately in view, or in causing the unwelcome intruder to forbear for the future from inflicting such annoyances on his auditors. The milder method adopted in the

Upper House is very efficient as applied to men who are keenly sensible to the humiliation of attracting no attention; but it sometimes fails with others: yet those who have had ample experience in both Houses of Parliament, seem to prefer the mode of proceeding in the House of Lords, not only on the ground that it is more consistent with the dignity of a legislative assembly, but that it saves time in the end: first, because those who are interrupted and put down by *quasi* violence are apt to strive to revenge themselves on their hearers by moving adjournments, or, on some future occasion, by still more tedious and lengthy discourses; and secondly, because more time is often lost in the struggles to interrupt, and the deprecatory apologies for undue prolixity, than would be consumed by the speaker were he allowed to proceed.

However it may be accounted for, there can be little doubt that business is done more rapidly, and perhaps better, in the House of Lords than in the House of Commons. But in the former (speaking generally) few take any part in the debates except members of the Government, and some five or six of the leaders of the opposition party.

CHAPTER VI.

ON THE PRESENT* CONDITION OF ENGLAND.

THE present condition of this country will be the subject of this chapter.

The following, as before mentioned, are some of the most important circumstances which together constitute a *state* or *condition* of society.

1. The degree of knowledge and moral and intellectual culture.
 2. The state of industry and habitual occupations of the community.
 3. The state of wealth and its distribution.
 4. The division into, and relations of classes.
 5. Their beliefs on the most important subjects.
 6. Their tastes.
 7. Their institutions.
- To which might be added,
8. The state of trade and commerce.
 9. Of external relations.

* This chapter was written between the 28th of September and the 30th of October, 1857, but some notes have since been inserted, and some comparatively recent Parliamentary returns added to the text.

The present condition of this country will be considered under some of the most important of the above heads.

Now, whatever that condition may be, we may be certain that it is susceptible of considerable improvement, but to what extent it is difficult to foresee. History teaches us that nations sometimes rise to a high degree of civilization—so high, indeed, that true lovers of their species are ready to anticipate a sort of realization, in no long space of time, of a golden age, not in the sense in which that term is used by the poets, but in that in which an enlightened social philosopher would employ it, when describing the end of political institutions; but then all of a sudden, and quite unexpectedly, a retrogression takes place, and the community is hurled back again into a state of comparative moral darkness: the eye of Hope turns aside with sorrow from contemplating the sad spectacle, and fondly turns to some other country as the only one in the then state of affairs of the world at all likely to fulfil any confident anticipations that may be formed of happiness for man; that other country shares the doom of the first, and thus mankind seems always to suffer shipwreck when just about to enter port after a tedious voyage exposed to many dangers.

Thus fell many monarchies and republics after having attained a high degree of civilization: thus

fell the magnificent empire of Rome, and thus may fall our own glorious empire, which seems to offer the finest promise of arriving at a state in which the hopeful dreams of philosophical philanthropists will be realized at some, perhaps very distant, period.

To proceed then to consider some of the elements of the nation's present condition, and

1. *As to the degree of knowledge and moral and intellectual culture in England.*

In considering these questions we shall first speak of intellectual culture, or education in the ordinary sense of the word, and as applied to the three great divisions under which the population of a country may be classed ; that is, the Upper, the Middle, and the Lower classes. The first may be considered as composed of landed and moneyed proprietors, including in that class all who live on incomes derived from accumulations, and who are placed above the necessity of performing any species of work to be paid for as such ; also of the members of the learned and liberal professions, merchants, and traders who are in similar circumstances. The Middle class contains such of the above as cannot be said to be placed above the necessity of labouring for their livelihood ; also the higher class of skilled artisans. The Lower class will comprise some of the skilled artisans and the unskilled labourers.

The quality of the education which the so-called upper class are receiving, at any given epoch, will generally depend chiefly on the state of the grammar-schools and the first-class educational establishments for boys, and on the system which happens to be in vogue at the various universities to which most of them, or, at all events, those from whom they derive their instruction, are sent.

Now, in considering the kind of education bestowed in schools and universities, those instances must be dismissed from our thoughts, in which transcendent geniuses educated at this or that school, or in this or that college, have made wonderful progress in incredibly short periods of time, and in various kinds of knowledge, nay, even the cases of all those who take high honours; and we must direct our attention exclusively to the progress made by ordinary persons of plain average understandings; and in that event we shall not find much to congratulate ourselves upon. It is to be feared that the majority of boys in this class of life leave school with a very moderate stock of Latin and Greek, and with scarcely any knowledge even of the elements of the mathematical or physical sciences, or of modern geography languages or history; they are frequently deficient even in the first four rules of arithmetic and fractions, and have scarcely read a single classical author of their own country.

Let us now change the scene to the University, and examine how far our picture is improved in appearance:—the Latin, which was probably confined to Cornelius Nepos, part of Ovid and Virgil, and a few Odes of Horace, is now extended perhaps to the Satires and Epistles of the last mentioned author, the whole of Virgil, Lucretius, and a few books, may be a whole decad, of Livy; the Greek, before confined to part of Homer and one or two easy Greek plays, and perhaps the *Anabasis* of Xenophon, may be now extended to four or five books of Herodotus or Thucydides, with the history and geography, and to four or five plays of Sophocles; to which we must add the required amount of Divinity, which at Oxford is considerable, and either Logic or four books of Euclid; and this often constitutes all the acquirements of a boy who has consumed about fourteen years in study, not very diligent study perhaps; but we may fairly assume that about six hours of most days were occupied, except during Sundays and vacations, and perhaps the earlier portion of their university career. The result, therefore, is that the bulk of the young men of the upper class in this country are said to have completed their education, and receive the degree of B.A., and in due course that of M.A., without having learnt some of the commonest truths in Natural Philosophy and Physics, or the elements of pure

Mathematics, and without that information in the departments of Modern History, Geography, English Literature, and Belles Lettres, which even the ordinary boarding schools for ladies profess to impart. This is surely a state of things which our posterity will have great difficulty in believing, and one calculated to excite alarm, even if the education of the lower class were stationary; but if that should prove to be rapidly progressing, the danger will be increased.

Within the last few years some very beneficial alterations in the systems of education pursued at our Universities have been carried out, but very little has been done to remedy the evils which have been above adverted to; true it is that schools of Natural Philosophy, Civil Law, and Modern History have been provided, in which those who are ambitious to distinguish themselves may earn those honours which of old were confined exclusively to proficient in the Classics and pure and applied Mathematics; but as yet there are not sufficient prizes provided for success in these branches of knowledge to stimulate the zeal of young men who have their livelihood to earn. Moreover, it still remains possible not only to obtain an ordinary degree, but even high honours, without possessing information on points on which, in the present state of general knowledge, it is disgraceful for one who is supposed to have received

the education of a gentleman to profess himself ignorant; on points too on which many of the pupils of our best industrial pauper schools possess at least such information as can be acquired by the perusal of popular works, and are quite able to answer questions. At a recent examination of the children of one of these schools the question was asked, whether there was any one present who could explain the principle of a pump? Several hands of both male and female pupils were immediately raised in token of assent, and a pupil was selected to answer: presently was heard the sound of crutches on the paved floor, and a poor boy hobbled forth to give the reply; he was lame and humpbacked, and his wan and emaciated face told only too clearly the tale of poverty and its consequences, unwholesome and scanty diet in early years; but he gave forthwith so lucid and intelligent a reply to the question put to him, that there arose a feeling of admiration for the child's talents, combined with a sense of shame that more information should be sometimes found in some of the lowest of our lower classes on matters of general interest than in those far above them in worldly station. Nor was this a solitary instance, for on other occasions of examinations of these children events which occurred forcibly suggested the same reflections.

The middle classes are instructed for the most part

in grammar-schools and commercial educational establishments scattered throughout the country, and their learning is generally confined to reading, writing, arithmetic, and book-keeping, to which may be added a greater or less amount of Latin, according to the station of life, and sometimes French, and some algebra and Euclid. Their knowledge of the rules of arithmetic is doubtless often very extensive and accurate, and they are skilful in accounts and book-keeping, but, being usually ignorant of the principles on which the arithmetical rules are founded, they are liable to make mistakes when anything is to be done at all removed from the ordinary course; their knowledge of fractions is probably also not always very extensive, especially of the decimal notation, and they are often ignorant of the use of logarithms.

The education of the middle classes, if compared, not with that of the higher classes, in comparison with which it may appear not deficient, but with that which the necessities of their condition of life would seem to require, is certainly unsatisfactory. They are often not taught, for example, any foreign language, not even the elements of pure mathematics or physics, nor drawing, nor geography. Let us consider, however, whether they are not likely sometimes to find the want of such acquirements. They may be farmers, for example, civil or mechanical engineers, medical practi-

tioners, or skilled mechanics. Might it not be useful to the farmer to know something of the rationale of the use of the different manures? it is true that the medical practitioner is taught chemistry in the ordinary course of his professional training, but a little previous preparation by learning first principles at school would be very useful even to him. Take the case again of the engineer and mechanic; surely a knowledge of the elementary principles of mechanical science would be a most useful addition to the school course in this case. In the profession of the engineer again, a knowledge of foreign languages, and particularly French and perhaps German, would be a most desirable, if not necessary accomplishment; yet few, if any, of the commercial schools supply the necessary instruction, and perhaps none supply it properly. There is scarcely an educational establishment in this country for boys in which any foreign language is really properly taught; the only attempt generally made is to teach the grammar and to read; but speaking and pronunciation are comparatively neglected. On the other hand, on the continent, and especially in Germany, the *Gymnasias*, as they are called, or higher class of commercial academies, form an excellent substitute for University training for those who have not the means or opportunity of obtaining it, and supply to this class of persons the very kind of knowledge

they most stand in need of, and doubtless the country, as well as the individuals, derives important advantages from the teaching of these establishments.

On the points above discussed in reference to the deficiencies in the education of the higher and middle classes the Glasgow Report of the Parliamentary Committee of the British Association already quoted, and the evidence given to the Oxford University Commissioners, will furnish important information.

The institution of public competitive examinations, which will be hereafter alluded to in connexion with the education of the lower classes, but more particularly the organization of the middle class examinations by Oxford and Cambridge, cannot fail to exercise a most important influence for good on middle class education : as to the education of the lower classes, so much has been written and spoken upon it in vain, that it is impossible to approach the subject without some feeling of alarm, and the impression that it is perhaps better to avoid entirely any discussion of that which has already been discussed *usque ad nauseam*, and to so little purpose. Now there can be little hesitation in pronouncing the provision made for the education of the poor to be on the whole defective ; and yet the prospect in this case is brighter than in the two already discussed. Still, in the great majority

of the schools for the lower classes, the instruction is confined to reading and writing and a little arithmetic; and it often happens that the system of teaching is of a very primitive character; and in localities where the labour of children is much in request, they are removed from school at such an early age, that but little progress can be made even in learning to read, much less in other branches of knowledge. In confirmation of this view of the case, a remark by the late Mr. Porter may be quoted: "The Reports of the Statistical Societies of London and Manchester have shown how unworthy of the name of education is the result of what is attempted in the majority of schools frequented by children of the working classes, and which are frequently kept by persons whose only qualification for this employment seems to be their unfitness for every other."* Nor must we conclude that the exertions which have been made since the period to which Mr. Porter refers, great though they have been, have as yet much diminished the evil.

The early removal of children from school, arising in some cases from the cupidity, but in the great majority from the necessities of the parents, is the great obstacle in the way of conferring anything worthy of the name of education on the poorer classes. But notwithstanding all this, the prospect

* Porter, 'Progress of the Nation,' edit. 1847, p. 703.

is still a bright one, and the following are the circumstances, and they are of recent occurrence, which have so much raised the hopes of those who take an interest (and who does not is not worthy of the name of a friend to humanity) in the instruction of the working classes. The exertions of the National and British and Foreign Societies, the contributions of the State to their funds, and the labours of the Committee of Privy Council, also the institution of the Factory and Union schools, have all doubtless produced, and still continue to produce, most beneficial results ; but the circumstances to which allusion is made are more recent.

The first point which may be mentioned is the establishment of Industrial Schools in connexion with pauper relief. By these institutions the children are separated from their parents, for the most part habitual paupers, and from workhouse contamination, and removed to a healthy building, in which the pupils collected together from various neighbouring Unions receive a superior education for persons in that class of life, and are, moreover, instructed in those industrial avocations which will enable them to earn their livelihood. Some specimens of the results of this training have been already given ; but if any one should be sceptical on this point, he should read the reports of the Government Inspectors, and the letters of

Mr. Garland, the able Head Master of the Quatt School, in the Government Reports on the schools in question : he will there find a most interesting account of the success of these establishments, including letters received from those who were once pauper pupils at these schools, and who, having obtained excellent situations, and being in a fair way of earning a most respectable position in the world, express in homely but eloquent strains their gratitude to their masters, and to those admirable institutions which have saved them from degradation, and enabled them to hold their own among the most thriving of the working classes of the country, and often to rise even higher than this, for we read of some of the pupils of these schools having obtained the situations of engineers, clerks to solicitors, chartermasters, and so forth.

Another circumstance which more than any other renders it certain that the education of the lower classes must go on and prosper, and that no amount of prejudice or obstructions from the jealousies of rival religious sects, or the necessities or avarice of parents, can seriously impede its progress, is the late institution of open public and sometimes competitive examinations, by the result of which the authorities are guided in the distribution of offices, while the successful candidates at the examinations of the Universities and the Society of Arts are presented with testimonials

which will doubtless often enable them to obtain respectable situations, and greatly aid their career in after-life. Here we have an institution which operates by one of the most powerful of human motives, self-interest. Hitherto parents have been induced by greediness of worldly gain, or by the pinchings of penury, to remove their children from schools from which no worldly advantages (at least so in their blindness they reasoned) could be obtained either for themselves or their offspring: but now how is the prospect changed! May be, by some sacrifices which *they* could make, their children might be able to obtain such an amount of knowledge as would qualify them to be successful competitors in these examinations, and the whole field of enterprise would at once be open before them; there they might contend with the highest in the land for every post which is attainable by the display of superior talent. Parents are thus urged by the most potent of all stimulants, not only to deny themselves every luxury, and abstain from all sensual indulgences, but even to curtail themselves of what some would deem necessities, to give their offspring a chance in the great race of life.

Whatever, then, be the result of the interminable discussions in our Houses of Parliament, and inquiries by Commissions, on the great subject of a general system of National Education,—whether

this or that scheme ultimately prevail, whether opinions that have been handed down to us from ten generations, and which have hitherto impeded the march of improvement, are destined to be abandoned, or to continue to operate,—the great and holy cause of National Popular Education is safe—safe beyond all possibility of miscarriage; for if the State will not provide the necessary funds, there can be little doubt that those directly interested will.

Before leaving the subject of competitive public examinations, it may be well to notice one argument which is most pertinaciously urged against the system. Suppose that the examination preceded the grant of a commission in the army, or of a clerkship in the Treasury, it will be said, What is the *use* of this or that accomplishment in this or that profession or office? we do not want book-worms, but men of good moral character, gentlemen in feeling and habits, gallant and dashing soldiers, obedient to discipline; or steady and industrious scribes, competent and willing to carry out the instructions of their superiors, without canvassing their propriety. Be it so; but the qualities alluded to are to be ascertained, as far as possible, now as before, by previous inquiry and certificates and probationary service. It is not the object of the examination to ascertain *them*, but the general intellectual calibre of the can-

didate for employment, and the extent to which his mind has been exercised; yet are men likely to be less dashing and gallant, the more knowledge they possess? Are they likely to be less moral, less steady, less industrious, and less willing to obey, because they have successfully struggled with and overcome the temptations of youth, dedicated themselves to study, and surpassed their rivals in the contest for distinction?

Another hopeful circumstance in the present condition of the education of the working classes is the steady increase of institutions for the improvement of adults—such as the opening of schools at night, the formation of Working Men's Colleges, and the like.

But can the State and ought the State to help forward the education of the people? and should the exertions made be successful, and a great stimulus be given to the intellectual advancement of the masses, what is likely to be its effect on them and those classes which are above them in wealth and social position?

Now as to the power of the State to assist in the great work there can be no doubt, and it is a power which is, to a considerable extent, now exercised; but there are still some who doubt the expediency of exercising it; and there is a sad amount of prejudice abroad on the subject of imparting a higher grade of information to the working classes,

and it perhaps prevails to a greater extent among the middle class than that above them. This prejudice may be traced partly to a sincere and honest conviction that such education is uselessly lavished on those to whom it can be of no advantage, but will prove a positive disadvantage, should it make them dissatisfied with their lot in life. It is, in fact, precisely the same feeling which was so often expressed about the beginning of the present century, when some doubted whether the lowest class of agricultural labourers should be taught even to read.

But to all this we may now answer, that the instruction given may enable the pupil not only to obtain his livelihood, but may be the means of raising him to a much higher station of life, if the seed have fallen on very fertile soil; and there only remains the old argument, so often refuted, that you are making men discontented and conceited; and loth to undertake the sort of work which is alone likely to fall to *their* lot; and you are, besides all this, overstocking the intellectual market. For, say the advocates of ignorance, there are not good situations for all; all cannot rise above the stations in which they were born; and can you expect that the Latin scholar, the student of Euclid, algebra, and logic, will soil his hands by handling the plough?

Now the descriptions of Colonial life at Aus-

tralia and the Cape supply examples of men whose accomplishments are far greater than those which are likely to fall to the lot of the bulk of the poor, cheerfully undertaking to perform manual labour, when they found that such a course was become necessary, if not to the preservation of existence, at least to success in their undertakings. Many log huts in the wilds of Australia are tenanted by men who have taken degrees at the Universities. But however this may be, it cannot fail to be seen that the argument may be always urged against any attempt to enable men to rise above the status in which they were born.

Where all are equally raised to a higher intellectual eminence, it matters not how great the elevation, none can be conceited or too proud to perform the work of their station of life. If it should be eventually found that the intellectual market is overstocked, manual work must still be the portion of many, however highly cultivated their minds may be. It is absurd to imagine that mental cultivation, as such, renders men unfit for manual labour; no work can be done by the hands alone, and cultivation of the mental powers often renders most important aid, especially in all work performed by skilled artisans.

However this may be, it is the bounden duty of all who enjoy so choice a blessing as that of a

cultivated mind, and especially of those who possess it in full measure, to devote their best energies to extend it to others, and promote that which can be easily proved, and has been proved, to be God's main object in creation—the happiness of all His sentient creatures. Of all His gifts to man the intellectual and moral faculties are the noblest; they are susceptible of vast development and improvement, which can be carried on throughout the whole of existence; and without such improvement, and the further it is carried the better, real genuine happiness is impossible, though there may be a counterfeit, a lower sensual and degraded state of enjoyment, which grovellers upon earth would fain dignify by that appellation; but this is prostituting a worthy name to an ignoble use. Talk not, then, of education rendering men unfit for the duties of life! If this should happen in a few isolated cases, and for a short time, it is a state of things which cannot and will not long endure.

If the above views should ultimately triumph, and the general diffusion of something really deserving to be called education among the masses no longer be a name but a fact, what is likely to be its effect upon the middle and higher classes? Clearly they ought not, nay, cannot remain stationary. It would be an unwholesome and vicious state of society, in which those who

are comparatively unblessed with fortune's gifts should be generally superior in intellectual attainments to those above them in station. The former having knowledge, and knowing well how to value it, will look down with contempt on men who, having had many advantages in the race which they had not, neglected to appropriate to themselves such an invaluable possession. And as these, together with other considerations, will, it is to be hoped, stimulate the middle class to advance *pari passu* with the lower; so they should influence the higher to keep their mental attainments above the standard of those of the middle class. If this stimulant should have the effect of raising their intellectual condition, they would be amply repaid for the support which they had afforded to mental progress by the general advancement of the nation in knowledge; and eventually, in proportion as such principles spread and such arguments prevail in other countries, of all the human race. Yet the social philosopher may well be justified in feeling some alarm in reference to this higher class. Their want of motives to advance in proportion to the progress of those below them in station is manifest. Most of them lack the stimulus of a deficiency even of the luxuries of life; and the temptations of pleasure are ever at hand to lead them astray, and reconcile them to a life of indolence, which will then more than ever

be a life of shame. Still we may be hopeful when we reflect that, when knowledge has become very generally diffused, and when the lower classes are threatening to oust those above them from their high pre-eminence of superior learning, its advantages will not only have become still more patent, but a strong spirit of emulation is sure to be aroused, and then those who are sunk in a lethargy of sensual indulgence will gradually become sensible that the time for slumber has gone by, and that they must put their armour on and prepare for the contest.

It is to be hoped that the arguments above urged, and such as may be employed hereafter by men gifted with far greater powers of persuasion, may have sufficient weight to prevail on the higher classes to devote more of their time and energies to the acquisition of knowledge: a little more attention to this object, the importance of which cannot be overstated, a little less eagerness in pursuing those pleasures which woo them at every step, and like some fair syren seduce them and lead them astray from severe application, and their success cannot be doubted; for they have the inestimable advantage of wealth to purchase the means by which knowledge is obtained, and leisure to turn those means to good account.

It is with reference to the foregoing considera-

tions that reforms in grammar-schools and in the Universities, and some attempts which have been lately made by the British Association and the Council of the Royal Society to advocate the more general cultivation of science, become of paramount importance; for there are perhaps no branches of knowledge in which the mass of the middle and higher classes are more deficient than in those of mathematics and physics.

The Council of the Royal Society, in considering the question—"Whether any measures could be adopted by Government or Parliament to improve the position of science in this country?"—were naturally led to the suggestion of measures that would not only materially advance *that* object, but would also give most important increased facilities for extending the knowledge of scientific truths among the nation at large. In their twelve resolutions which were forwarded to Lord Palmerston in January, 1857, as the result of their deliberations on the above question, they recommend that the public schools should make physical science an integral part of their course of education; that classes should be established in metropolitan and provincial schools, where those who have not the means or opportunity of studying at the Universities may be taught the elements of physical science on a systematic plan; and that provincial museums, lectures, and libraries should

be encouraged by public grants in aid of local contributions.

The above remarks on education must be understood as applying to the male portion of the population only: with respect to the female, every remark which has been made in reference to its present unsatisfactory state applies with far greater force; for their intellectual condition and means of improving it are doubtless inferior to those of the other sex. Mr. John Stuart Mill, whose able works have been so often quoted and referred to, seems to be an advocate for making little, if any, distinction between the sexes in respect to education; this may, perhaps, be an extreme view of the question, because a great part of the intellectual training of men is professional or technical, and given with express reference to some duties which they are afterwards to be called upon to perform, and from most of which women, as society is now constituted, are excluded: but with reference to all those departments of knowledge which cannot be characterized as technical, all those, *e. g.*, which discipline the mental faculties, form the taste, and beneficially enlarge the circle of ideas, and by so doing render the human mind better adapted to perform every function in life, everything in fact which is taught at the Universities, there can, it is believed, be no sufficient reason given why women should be excluded from

these departments of knowledge. The arguments which may be and have been urged in favour of improving to the utmost the intellectual endowments of men, seem to apply with equal force to the other sex. Still there may be peculiar circumstances, there may be a something in their position in society, which renders it inexpedient to adopt the same course in reference to their training as is pursued in the case of the male sex. Now on this question there is, and probably will be for some time to come, much diversity of opinion. Some object that women have not sufficient time at their disposal for study, but unmarried women have generally much leisure, and the domestic duties of the married often occupy little if any more of their time than is engrossed by the professional avocations of their husbands. By some the cultivation of the female mind is viewed with peculiar jealousy, as a kind of invasion of the privileges of the other sex; and it is supposed by others that more learning would impair their feminine character and sense of dependence on the other sex, and would render them in married life less devoted to their husbands, less submissive to control, less disposed to perform the peculiar duties which naturally fall to their lot. Without attempting to give any positive reply to the question under discussion, it is only fair to make one remark, and that is, that

some of the latter objections to female education are much of the same character with those which are urged against giving a better education to the working classes, and admit of the same answer: and any one who values knowledge at its proper worth, will at least have some hesitation in subscribing to the opinion that a wife will be rendered a less agreeable companion by improving her mental endowments.

It may not be well to conclude the above short notice of the position of this country in reference to the quality of its education, without giving some information as to its quantity. The statistical returns to which we are about to allude have no pretensions to extreme accuracy; but they will at least show good ground for believing that, in this respect also, there was, and is, great deficiency; but that strenuous exertions have been made to render *some* kind of instruction—not, it is true, of a very high grade—general.

It appears by Parliamentary returns, that in 1818 there were in England and Wales 674,883 scholars at infant and daily schools, out of a population estimated at 11,642,683, being one scholar to every 17·25 of the population. In 1833, however, the total number of children receiving instruction was 1,276,947, out of a population estimated at 14,386,415, which gives one scholar to every 11·27 of the population. In 1851 there were 2,144,378

scholars out of a population of 17,927,609, being one scholar to every 8·36 ; about one in 6 ought, however, to be the proportion receiving instruction. In page 707 of Mr. Porter's instructive work will be found a curious record of the number of persons who sign their marriage registers with marks, as being unable to write : the number of men is about one-third, but of women the proportion is much greater. The table, unfortunately, extends only to six years, ending with 1844. This is the more to be regretted, as the marriages only amount to about 3 per cent. on the population. The table is interesting, also, as throwing some light on the comparative state of knowledge (so far as writing is a test) in the various counties.

In respect to that kind of knowledge, as distinguished from intellectual training, which is obtained by associating with men of all grades of society, by performing the duties and incurring the responsibilities of some active profession or avocation in life, and by taking a part, though perhaps a subordinate one, in the local or general administration of public affairs—there is no lack in this country of that species of mental training, if we except, perhaps, the lowest class of agricultural labourers.

The moral state of the nation has been classed with its intellectual ; it will be necessary, therefore, to add some remarks upon this subject.

Now, on this point, there is undoubtedly some room for rejoicing; not only may this country be pronounced to be a moral country, but it is impossible not to see that in this respect there has been great improvement in late years. Even here, however, there are some dark spots in the picture, which it would be dishonest to omit or slur over in giving an account of the present moral condition of England.

With reference to the classes to which the appellations "higher" and "middle" are commonly applied, there can be no doubt that there is a great diminution in those vices which meet the public eye: there is little drunkenness, scarcely any, in the higher class; and in respect to those delinquencies which consist in an improper gratification of the sexual appetite, there is very little open profligacy. When these assertions are hazarded, of the truth of which there can be little doubt, there are always gloomy and morose alarmists and traducers of mankind who invariably look at the bad side of every picture, and who are ready to exclaim—Ay, but there is more secret vice! However this may be, when homage has been paid to Virtue by those who refuse to worship at her shrine so far that they are unwilling to allow their aberrations to be seen, it is a sign of a condition of public opinion from which much may be inferred in favour of the state of contempo-

aneous morality. Moreover, it is impossible not to value very highly even an outward show of decorum and propriety. The state of morals is always reflected, as in an unerring mirror, by the state of manners; the improvement in which, since the middle of the last century and again since the beginning of the present, is perfectly notorious, at least so far as regards the classes now under consideration. It has been truly observed that Squire Western, Parson Trulliber, and Justice Thrasher, were admitted to be true pictures in the time of Fielding (1750), and those who have lived half a century can remember something very nearly allied to them; but every one would exclaim that they were gross caricatures if applied to the country gentlemen, clergy, and magistrates of the present time.

The vice of drunkenness has been succeeded by the habit of smoking, which, if not to be called a vice, must certainly be considered as a bad habit, and productive of much annoyance to all with whom those addicted to it associate. From about the middle of the eighteenth century till the era of the peace of Paris, this practice had almost entirely disappeared: it was revived by some young men, who went abroad and imported it from the Continent at that period. There is no doubt that the practice recommends itself to youth by the great encouragement which it affords to

listless indolence; men who are ashamed to sit with their hands before them, literally doing nothing, feel that smoking, being in a sense an employment, justifies that which, without this excuse, even *they* would regard with some feeling of compunction. We have the evidence of the medical profession that the practice, if carried to excess, is injurious to health; and there can be no doubt that, on the principle of doing nothing wilfully which can annoy your neighbour, it ought to be abstained from. The allegations that smoking is ever conducive to health, or a preservative against cold, and so forth, are entitled to little weight.

The almost total abandonment of the barbarous practice of duelling is another most gratifying proof of the general increase of intelligence, and of a more healthy state of moral feeling among the higher classes of the community.

There are two practices, however, which still, to a certain extent, prevail among the upper and middle classes, which are much to be deplored—that of imputing bad motives, and that of condemning conduct on very insufficient and inconclusive evidence. The latter was very prominently exhibited during the sufferings of the Crimean campaign, when all right-thinking persons were daily annoyed by confident criticisms on the conduct and actions of absent men, fighting the battles

of their country, from persons incompetent to form a sound opinion on such a subject. That the army suffered, and suffered from abuses which, had they not been corrected, might have undermined our military power, may be freely admitted; but the verdict of an impartial posterity will acquit our political and military chiefs of any blame for evils which were entirely beyond their control.

In reference to the improvement in the morals of the lower classes, there is some interesting evidence in a Report of a Committee of the House of Commons, appointed in 1835 to inquire into the State of Education, and another Report of a Committee, appointed in 1840, on the Import Duties, which fully establishes the fact of a great amendment having taken place in the morals and manners of the lower classes.

One circumstance alone would almost establish the truth of this allegation: there were, in 1840, from 1600 to 1800 coffee-houses, frequented by from 1500 to 400 persons daily, open in the metropolis alone, and they were rapidly increasing in the country, for the sale of coffee and tea, at a price of from 1*d.* to 3*d.* the cup, where no intoxicating liquor was allowed to be sold; and some of the owners of these houses paid 400*l.* a-year for newspapers, magazines, and binding.

Mr. Porter, writing about the year 1845, says

“that our multiplied abodes of want, of wretchedness, and of crime ; our town populations huddled together in ill-ventilated and undrained courts and cellars ; our numerous workhouses filled to overflowing with the children of want ; and our prisons (scarcely less numerous) overloaded with the votaries of crime, do indeed but too sadly and too strongly attest that all is not as it should be with us, as regards this most important branch of human progress.”*

Since the period to which Mr. Porter refers, owing to the exertions of benevolent individuals, among whom Lord Shaftesbury occupies a prominent position, considerable improvement has been made in drainage, ventilation, and construction of the dwellings of the poor ; and the over-crowding has been diminished. But in reference to pauperism and crime there is, alas ! but little amendment. As to the former, the great reform of 1834 continues to produce beneficial results, and to protect us from falling back again into that abyss of immorality from which it delivered us ; but the misplaced humanity of guardians averse to apply the workhouse test in numerous cases in which it ought to be applied, and the reluctance of magistrates to make orders to compel the relations to maintain their pauper kindred, by weakening the

* ‘Progress of the Nation,’ edit. 1847, pp. 638 *et seq.*

motives to industry and exertion, and releasing men from the performance of the noblest of duties, seriously lessen the moral benefits which that great measure was intended to produce, and contribute to swell the lists of out-door relief.

In reference to crime, Mr. Porter shows, that in England and Wales the number of persons committed for trial was, at the period to which he refers (1839), five times as great as in 1805, the earliest year for which records are available. In Ireland they were seven-fold ; and in Scotland the committals had increased six-fold between 1815 and 1839.

The increase of crime had far outstripped the increase of population ; for the population of England and Wales was, in 1801, 8,892,536 ; in 1841, 15,914,148 ; and in 1851, 17,927,609. In Scotland it was, in 1801, 1,608,420 ; in 1841, 2,620,184 ; and in 1851, 2,888,742.

Before proceeding to discuss these lamentable results, it may be well to mention, with respect to Ireland, that the famine of 1847, an event most sad and mournful indeed in itself, has yet been probably the principal cause of the regeneration of that country which has since taken place. The great loss of life during the famine, the vast emigrations which followed it, and the numerous sales of encumbered estates, which have transferred so

much of the real property of the country into more wealthy hands, have together effected so great a revolution in its condition, that its statistics prior to 1847 are now useful merely as matter of history. Among other beneficial effects of the recent changes, crime and poverty seem to be so much diminished, as to inspire us with the most cheerful anticipations as to the future of that once ill-governed, distracted, and unhappy country.*

Now there can be no doubt that, though crime may have increased, and this fact is undeniable, we enjoy a far greater degree of protection from personal violence than our ancestors. One cause of this is the smaller amount of coin carried, owing to the use of paper money and the other devices of commerce for dispensing with the use of coin ; but it is due also to an improved system of police. Owing to this latter cause in part, the proportion of convictions to committals has been raised from 58·8 per cent. in the five years 1805-9, to 79·15 per cent. in the five years 1841-5.

But this change is due also to other causes too important to be omitted, as they throw much light on the moral progress of the nation. It is attributable, in part, to the allowance of expenses to prosecutors and witnesses, and the simplification

* Since the above was written some symptoms have unhappily appeared of a revival of dastardly assassinations and of secret societies.

of the criminal law ; but it is chiefly owing to the successive mitigations of the severity by which our criminal code was formerly distinguished, effected by the able and enlightened exertions of Romilly, Mackintosh, Wilberforce, Lords John Russell and Brougham, and others. In this respect great improvements have been made even since the accession of our present excellent and enlightened Sovereign. In 1808 the amelioration began, and our legislators, for the first time, saw the cruelty of hanging for stealing five shillings privately from the person. Between 1818 and 1824, capital punishments were abolished for twenty-one offences, but this remission did not reach any of the larger offences, and applied to some that were obsolete. In 1832 we ceased to hang for sheep-stealing, and stealing to the amount of five pounds in a dwelling. Between that year and 1837, capital punishments were abolished in respect of ten offences ; and since the accession of the present Queen the punishment of death has been removed from all but about nine offences, of which four are of very rare occurrence. The number of persons in consequence sentenced to die has diminished from 1601 in 1831, to 49 in 1845. On perusing the table of committals, between the years 1804 and 1846, given by Mr. Porter,* it is seen that the committals rose from 4346 the minimum, which

* 'Progress of Nation,' edit. 1847, p. 642.

occurred in 1806, to 31,309 the maximum, which occurred in 1842.

It is satisfactory to be able to add, that in the majority of the offences for which capital punishments were repealed there has been a decrease, while commitments generally have increased.*

One fact mentioned by Romilly in 1816 is conclusive as to the cruelties formerly perpetrated in this country under the name of justice, viz., that in 1785 no less than 97 persons were executed for the offence of shoplifting in London alone.

In 1841 the proportion of offenders was one in 573 in England and Wales, and one in 742 in Scotland, a result which may possibly be owing to the more general diffusion of education in the latter country.

To revert to the question of the remarkable increase of crime, notwithstanding the acknowledged improvements in our manners and morals, and in our criminal code, there are two classes of returns which, if they do not explain, at least throw great light on this subject. Up to 1834 there was no classification of offences in the criminal returns, but they are now classed under the following six heads:—

1. Offences against the person.
2. Offences against property, committed with violence.

* 'Progress,' &c., p. 645.

3. Offences against property, committed without violence.

4. Malicious offences against property.

5. Forgery, and offences against the currency.

6. Other offences.

Now, on inspecting the table showing the increase of offences,* it is perceived at once, *that such increase applies chiefly to offences against property committed without violence, i. e. Class 3*; while in all the others there is no increase of importance, and in some a decrease, and *that*, although the population increased between 1834 and 1845 more than 15 per cent. The relaxation in the severity of the criminal code has, therefore, nothing to do with the increase of crime, for the offences of Class 3 were little affected by these alterations; the cause must be sought elsewhere. The criminal returns also tend to make us sceptical as to the truth of the common belief, that crime is much promoted by bringing men together in large masses. For each million of inhabitants there were charged with offences:—

	1805.	1840.
In 20 agricultural counties ..	446	1753
In 20 less ditto	590	1836

The other return which throws light on the subject under discussion, viz. the increase of crime coincident with an improvement in manners and

* Ibid., p. 653.

morals, is that which enables us to discover the degree of education possessed by those who have been committed for crime. In 1835 returns were obtained of the degree of instruction that had been imparted to persons committed for trial, which were extended in 1836. The amount of education possessed by criminals is now classed under four heads, beginning with those who cannot read and write, and ending with those who have received what is termed "superior instruction," but which means only something beyond mere elementary reading and writing. From these records it appears that in the ten years from 1836 to 1845 inclusive, out of 252,544 persons committed and whose amount of instruction was ascertained, there were 229,300 uninstructed; and only 1085 had advanced beyond the elements of reading and writing. It is clear, therefore, that it is the ignorant who fill our gaols. Surely these figures are both a proof of the value of that mental training, on the importance of which so much has been already said; and a sad confirmation of the neglect of a nation, which would seem to prefer punishment and misery at the greater cost to prevention and happiness at the less.

But still we must not forget that the mere act of sending their offspring to school is a sign of a superior moral development in the parents, and that ignorance therefore is an *effect*; ignorance in

the children is the result of the moral degradation of those who are responsible for their training.

Of the whole number of persons committed, 18·65 per cent. were females; of the 1085 educated, 3·96 per cent. only were females.

It appears, then, that it is the milder form of offences which has increased, and that those who pilfer are for the most part very ignorant; still it is strange that there should be this increase of petty crimes against property, while there has been a marked improvement in manners and morals. It may possibly be owing to some peculiar phase or change in the manners and habits of the uneducated classes which the investigations of our Legislators, Commissioners, or Inspectors have not yet unravelled and brought to light. It would appear that larceny has become of late years more than ever a kind of profession, to which unhappy children of both sexes are regularly trained from infancy.

The great amount of vice in persons of tender years is a melancholy feature disclosed by the criminal records. Thus, in 1835, there were 2002 males and 354 females under sixteen years of age committed for trial. The numbers increase in every year, until, in 1841, they amount to 2656 males and 556 females. These are, doubtless, chiefly cases of orphans, and children either abandoned by their profligate parents, or who have

been in some form or other exposed from their earliest infancy to evil influences.

The lamentable extent of this mischief at length powerfully awakened the attention of benevolent individuals; and the Legislature began to perceive that, if the rising generation were thus allowed to persevere in their abandoned career, society would soon reap a plentiful harvest of crime. Two principal remedies have been applied, and with success: in the first place, the young have been separated in the prisons from the hardened offenders; and, in the second place, the ragged and reformatory schools have been established, the only title to admission to which is crime or misery.

There is undoubtedly some force in the objection that institutions of this kind offer a bonus to crime: parents may be induced by the tempting bait of an education for their children—better than honest labourers in their own grade of life can provide—to send their offspring to wander or steal by way of qualifying themselves; and they may be urged by like motives to abandon their children, that they may become fit subjects for reformatories and ragged schools. These are difficulties, no doubt, but they may be partly obviated by stringent provisions, compelling, wherever that is possible, guilty parents to contribute to the maintenance of their children when in reforma-

tories and schools. Upon the whole, however, it seems more for the interests of society, and certainly it is highly conducive to those of humanity, to educate the child whenever circumstances place him in our power.

Schools for the express purpose of reforming the juvenile offender had been already established in many localities by kind-hearted individuals in imitation of a great institution at Mettray, in France, and had been to a certain degree successful; but these establishments have now received the sanction of Parliament, and much good may be anticipated as likely to arise from them. The records of the ragged schools also show a large amount of children rescued from penury and vice, instructed in the elements of knowledge, and provided with the means of earning an honest livelihood. Of all the sights which meet the eyes of one who traverses the streets of the metropolis, there are few more agreeable, few more suggestive of hopeful anticipations as to the future of our race, than that of the little shoe-blacks, who take their stand at the corners of the crowded thoroughfares ready to perform their humble vocation. What tales of misery and oppression could some of these rescued wanderers unfold! and doubtless that red jacket covers many a heart which overflows with gratitude and joy, and is beginning to be sensible of the value of

self-respect and independence. There can be little hesitation in concluding that when this experiment has been fully developed, it will eventually prove the means, not only of rescuing the objects of the institution from penury and crime, but of raising some of them to opulence and fame.

The nobleman whose name has already been honourably mentioned in connexion with the improved dwellings of the poor, took also a conspicuous part in effecting these benevolent reforms.

Allusion has been made to the separation of the young from old and hardened offenders. An Act was passed in 1835 for effecting greater uniformity in the management of prisons, and appointing inspectors in Great Britain. The appointment of these inspectors and their reports have brought to light, and have been the means of remedying, many abuses ; and they have caused experiments to be undertaken to ascertain the possibility of reclaiming criminals. Under the control of these inspectors, and under the systems introduced in conformity with their suggestions, our prisons have ceased to be any longer schools of vice ; and nothing can exceed the cleanliness, decency, and order now maintained in some of the best regulated of our present gaols. This is admirable, considered in itself, and of the utmost consequence as respects the reformation of the criminal ; but it is still more striking to one who has either seen

or read the accounts of the former condition of these receptacles of vice.

The alterations which have also taken place since the commencement of the present century in the treatment of that most unfortunate class of persons who have lost their reason, are likewise very satisfactory. No restraint is used, except in the most extreme cases, and then only for a few hours. Their dwellings are clean, airy, spacious, commodious, and provided with everything which can amuse and cheer their unhappy existence. What a contrast to the manacles, darkness, and straw of former times! These remarks apply to public asylums: it is to be feared that in some of the private receptacles for the insane, a few of the old enormities still maintain their ground; and those who are so unfortunate as to have the care or guardianship of relations in this unhappy predicament, would do well to send them in all cases to establishments of the former class, in which constant supervision is provided for.

Before concluding the notice of the moral state of the country, it will be well to guard against the notion, if any should be disposed to entertain it, that to give that amount of instruction which is termed "*superior*" in our criminal records will destroy altogether the tendency to commit crime. It is quite true that only 44 in 10,000 in England, and only 180 in 10,000 in Scotland, of

those who commit crime, belong to classes who have received the benefit of this kind of education ; but we must not therefore infer that if all had this amount of learning, crime would disappear, or even be diminished in proportion to the general increase of education. Where the great mass of the people are ignorant, the few who have education are in a far better position than the uneducated majority for obtaining employment. If all were equally instructed this would no longer be the case. But, "knowing what we know of the quality of education as it has usually been imparted to the youth of this country, dare we hope that its restraining influence would be great? It is true we might even then expect to put an end to much of the violence and fraud by which the community is now disgraced. Merely instructed persons would better calculate the worldly advantages and disadvantages of right and wrong conduct. . . . But, further, is it not certain that an instructed community would be able to apply its energies more beneficially for the whole than is possible where general ignorance prevails, that employment would be more certain and more profitable, and temptations to dishonesty fewer and weaker?"*

The picture, or rather sketch, which has been above given, of the present state of this country

* Porter, p. 671.

in reference to morals, manners, and intellectual progress, though containing many gloomy features, is upon the whole a hopeful one ; but our confidence in a happy issue will be materially enhanced if we further take into our consideration the better and more earnest tone of feeling which prevails among the higher and middle classes in reference to these subjects, exhibiting itself in a far greater regard for the spiritual and temporal interests of those who have been born to an humble lot. It is not unusual now to see men occupying high stations, and members of both Houses of Parliament, devoting a great part of their time to various schemes for improving the condition, or advancing the education, of the working classes. There are instances, too, daily coming to light of great companies, large manufacturers, and opulent tradesmen instituting schools, museums, lectures, and libraries for the instruction of the labourers in their employment ; and it may be doubted whether any man would dare to express indifference to the welfare of the poor, in any respectable society at the present time, whatever his private opinions might be ; nor is there reason for believing that there is a want of sincerity in this forbearance. It may be truly affirmed that a benevolent regard for the interests of our poorer brethren, and kindly aspirations for their prosperity and well-doing, ex-

tensively pervade all classes of society in this kingdom.

All innocent recreations should be encouraged, and brought within their reach. It is a pleasing feature in the present times to see a growing taste for music developing itself among the working classes: there is nothing that more tends to refine and humanize, to soothe after severe toil the overstrained energies of the industrious poor, or to console in unmerited affliction, than the pursuit of art. Would that they were permitted to enjoy these pleasures fully on the only days on which they are released from labour!

The state of industry and the habitual occupations of the people; the state of wealth and its distribution; and the division into and relations of classes, forming the second, third, and fourth heads of our inquiry into the present condition of England, may well be treated of together.

In all these particulars this country may be said to occupy a very high position among civilized nations; the industry of its inhabitants is great; its wealth is vast, and very widely diffused; the people are for the most part employed in productive labour; and many of those who live on incomes derived from accumulations, devote a very considerable portion of their time to intellectual pursuits from which the community at large derive vast benefits. It is true that we have not that

law which exists among our neighbours the French, which *compels* every landed proprietor, whether he like it or not, to divide his estates among all his children ; but notwithstanding this, there is perhaps no country in which the mass of the property is better distributed, having regard to the interests of productive industry. The number of very large fortunes either in land or money is few, but the number of those who possess a decent competency is very great indeed. The people of this country are also pre-eminently a saving race ; the habit of accumulation is more strongly developed here than in most other parts of the world, partly owing to the national character, but principally, doubtless, to that confidence in the maintenance of order, and the security of person and property, with which our admirable institutions inspire every one who has the happiness to dwell under the British Crown. We have here another and excellent example of the manner in which the various phenomena of society act and react. Men accumulate, among other reasons, because they feel confidence in the preservation of order : but the possession of accumulations, the having a stake in the country, greatly increases their desire to maintain order, and uphold their country's best institutions. So it must ever be ; and when a nation has once fairly entered on the right path, there is tenfold security that it will persevere.

This makes it more difficult still to account for those terrible reactions which suddenly throw society headlong back into barbarism.

Information on the various topics just adverted to, is to be collected only very imperfectly from Parliamentary records. The science of statistics is as yet in its infancy, nor can it be expected to attain its maturity till social science is better understood; until men have settled what points in the history of their race are really instructive, and worth a special record; till that time arrives, both in historical and statistical records, we shall continue to have much carefully noted that is absolutely worthless to the social philosopher, much omitted that is of the last importance to mankind.

By the census of 1841 it appeared that the percentages of the total population of Great Britain, engaged in the following employments, were as follows:—

	England.	Wales.	Scotland.	Great Britain.
Agriculture	7·7	11·4	8·8	7·9
Trade, commerce, and manufactures }	16·9	9·9	18·1	16·5
Domestic servants ..	6·2	6·9	6·1	6·2
Labour, not agricultural	4·2	5·8	3·2	4·1
Unclassed	65·0	66·0	63·8	65·3

The percentages of persons employed in the

three great classes of occupations in 1811, 1821, 1831, and 1841, were as under :—

Years.	Agricultural.	Commercial.	Miscellaneous.
1811	35	44	21
1821	33	46	21
1831	28	42	30
1841	22	46	32

This statement however, prior to 1841, refers to *families*, but in 1841 to *individuals*.

The Registrar-General says in his Report, "The first and most obvious distribution of the population is into the two great groups of those who work, and those who professedly have no definite occupations. After a due correction has been made for the persons who are infirm, or who have retired in advanced age from their trades or professions, the number of the latter class in this country will not be found to be numerous."

There are two kinds of *work*, manual labour, and other work, which is quite as productive and useful, and very often much more so than this. The mental labour of the inventors of industrial processes, for example ; also the labour of the cultivator of science or speculative thinker, by whose researches and experiments those processes are

often suggested, and those preliminary questions in science solved, without which it would be in vain to expect such splendid emanations from human skill and intelligence as the steam-engine, railways, and the electric telegraph, by which the happiness of mankind has, during the present century, been so wonderfully enhanced.

On this subject there is great misapprehension; and the uneducated portion of the working classes especially are too apt to designate as comparatively easy, undervalue as useless, and condemn as trivial, all kind of employment which is not, strictly speaking, manual. But those who work with the head, as indeed all do to a certain extent, know only too well, how severely human endurance is sometimes taxed by continuous mental toil.

To return to the subject from which we have digressed.

It may be well to preface the results of the census of 1851, in reference to the occupations of the people, by stating their various ages; there were in March, 1851, in Great Britain,

Of babes under one year	..	..	..	578,743
Infants 1 to 5 years	..	..	..	2,166,456
Children 5 to 10 years	..	..	..	2,456,066
Boys 10 to 15 years	..	..	..	1,141,933
Girls " "	..	..	..	1,114,882
Youths 15 to 20 years	..	..	..	1,051,630
Maidens " "	..	..	..	1,048,404
Young men 20 to 30 years	..	..	..	1,830,588
Young women " "	..	..	..	1,939,906

Men of middle age 30 to 50 years	..	2,376,904
Women	..	2,482,382

Again, there were,

Of all ages in Great Britain..	..	21,185,010
Under 20	..	9,558,114
Above 20	..	11,626,896

Again, there were,

At the age		
0 to 20..	..	9,558,114
20 „ 40..	..	6,555,954
40 „ 60..	..	3,526,342
60 „ 80..	..	1,414,798
80 „ 100	..	129,483
100 and upwards	..	319

The following table shows the comparative number of the two sexes at the ages specified :—

Ages.	Males.	Females.
0 to 20	4,806,566	4,751,548
20 „ 40	3,193,496	3,362,458
40 „ 60	1,714,914	1,811,428
60 „ 80	648,649	766,149
80 „ 100	53,607	75,876
100 and upwards ..	111	208

Of every 100 males of the age of 20 and upwards in Great Britain and the adjacent islands,

30·9	were bachelors.
62·0	„ husbands.
7·0	„ widowers.

Of every 100 females,

29·5	were spinsters.
57·3	„ wives.
13·3	„ widows.

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The following table shows the occupations of the people :—

PROPORTION OF PERSONS.	Under 20.		Above 20.	
	To 100,000 Males.	To 100,000 Females.	To 100,000 Males.	To 100,000 Females.
Class				
Persons engaged in—				
1. the general or local government ..	31	2	1,317	43
2. the defence of the country	164	..	1,642	..
3. learned professions	262	1	1,819	24
4. literature, science, and the fine arts ..	99	177	770	1,086
5. Wives, widows, children, relatives, &c.	71,350	80,361	403	54,470
Persons engaged in—				
6. providing board, lodging, clothing, &c.	2,537	9,739	9,478	22,437
7. buying, selling, keeping, letting, or lending money, houses, or goods ..	429	57	2,413	945
8. conveying men, animals, goods, or messages	2,112	115	5,287	126
9. renting and cultivating land	8,108	2,755	26,302	7,670
10. catching or employing animals	262	5	1,601	18
11. in art and mechanic productions ..	2,567	112	11,556	196
12. working and dealing in animal substances	1,917	1,794	5,432	2,749
13. ditto in vegetable substances	4,062	3,937	12,118	5,772
14. ditto in mineral substances	4,420	519	12,537	579
15. undefined labour ..	1,291	52	5,973	156

PROPORTION OF PERSONS.	Under 20.		Above 20.	
	To 100,000 Males.	To 100,000 Females.	To 100,000 Males.	To 100,000 Females.
Class				
16. Persons of rank and property not otherwise returned ..	13	40	623	2,305
17. supported by the community, and of no specified occupation	376	333	730	1,425
Other persons	299	703	1,014	1,245

It appears that about one-half of the population are described under some domestic appellation, as wife, daughter, niece, son, brother, child under tuition at home, &c., that is, as persons to whom no occupation is attributed, and who are considered as dependent on the head of the family. The other half of the population either possess accumulated wealth, or work with their hands or heads to acquire it.

Of this latter half, in round numbers,

1,000,000 are servants,
 1,000,000 are employed in preparing the materials of dress,
 1,000,000 are employed in making dress,
 1,000,000 are ordinary male agricultural labourers,
 and 1,000,000 others, male and female, are supported by farm or field operations.

Most of the above numbers slightly exceed the million.

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In the census returns, 1057 different occupations of males were tabulated, and 746 of females.

Of the 1057 occupations for men, the following eleven employ more than 100,000 :—

Agricultural labourers	1,006,728
Labourers, undefined	367,472
Farmers	275,676
Shoemakers	243,052
Farm servants, indoor	235,943
Cotton spinners and weavers.. .. .	222,612
Coal-miners	216,366
Carpenters	182,546
Tailors	135,028
Blacksmiths	112,184
Masons	101,391

Of the 746 occupations for females, the following four employ more than 100,000 above 20 years of age :—

Domestic servants	401,984*
Milliners	202,448†
Cotton spinners and weavers	143,268
Washerwomen and manglers	136,582

In the following trades there are masters who employ 350 or more persons, viz.,

- 113 Cotton manufacturers.
- 21 Woollen ditto.
- 13 Silk ditto.
- 12 Worsted ditto.
- 14 Engine and machine makers.
- 7 Earthenware manufacturers.
- 5 Iron manufacturers.
- 5 Builders.

* Besides about 200,000 entered under specific designations as cook, housemaid, &c.

† Besides 140,000 entered as needlewomen of various kinds.

Moreover 390 masters employ 100 to 150 each.

236	"	150	"	200	"
135	"	200	"	250	"
88	"	250	"	300	"
65	"	300	"	350	"
228	"	350	and upwards.		

Or 1142 masters employ 100 men or upwards.

The above extracts from the Census Returns of 1851 will give a general idea of the industry and occupations of the people of this country.

We pass, therefore, to the next heads, *The state of Wealth and its Distribution, and the Division into and Relations of Classes.*

On these subjects it will not be necessary to occupy much time.

A Parliamentary paper, No. 313 of the Session of 1856 (House of Commons), throws considerable light on the state of the distribution of wealth in this country. It is entitled a 'Return showing the Net Amount of Property and Income Tax, for the year ended the 5th of April, 1855, classed under the several Schedules, &c.'

This Return * shows the number of persons charged to the Income-tax, for the year ending the 5th of April, 1855, under Schedule D, distinguishing the number charged in each of the

* In some cases later Returns might have been obtained, but not always so well arranged and digested. Those selected are sufficiently near to the present time to illustrate the observations in the text.

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classes therein specified, the amount of income on which the duty is charged, and the amount of tax charged on each class (so far as relates to Great Britain). Now it is true that Schedule D does not include incomes derived from land,* but as it embraces almost every other description of property, the document in question supplies valuable information on the subject of the division of property.

The Return is as follows:—

CLASSES.	Year ending the 5th of April, 1885.		
	Income on which the Duty is charged.	Number of persons in each class.	Amount of tax charged upon each class.
Under £100 a-year ..	1,356,198	21,891	56,508
£100 and under £150	11,958,314	119,782	561,040
150 " 200	6,580,126	41,912	383,841
200 " 300	7,296,737	32,973	425,643
300 " 400	4,845,073	15,140	282,629
400 " 500	3,077,327	7,308	179,510
500 " 600	2,812,790	5,469	164,079
600 " 700	1,946,742	3,152	113,560
700 " 800	1,524,116	2,095	88,907
800 " 900	1,406,742	1,717	82,060
900 " 1000	744,549	798	43,432
1000 " 2000	6,950,241	5,324	405,431
2000 " 3000	3,535,927	1,557	206,262
3000 " 4000	2,690,954	819	156,972
4000 " 5000	1,987,276	466	115,924
5000 " 10,000	5,164,568	773	301,266
10,000 " 50,000	7,843,065	445	457,512
50,000 and upwards ..	3,522,171	41	205,460
Total	75,242,916	261,662	4,230,036

* The total *assessment* on land is 6,022,753*l.*, and the total on all property for Great Britain is 13,227,252*l.* For Ireland 1,130,838*l.* for the same year.

It appears, therefore, that out of a total income of 75,242,916*l.* possessed by 261,662 persons, no less a sum than 25,835,177*l.*, or about 34 per cent. or one-third, is in the hands of 194,667 persons, whose incomes range from 100*l.* to 300*l.* a year, and who are in number about 74 per cent., that is about three-fourths, of the whole number of persons assessed. Moreover, 41 persons possess incomes, assessed under this Schedule, exceeding 50,000*l.* per annum ; and 1725 persons only possess incomes above 4000*l.* per annum. Yet the income of these 1725 persons amounts to 18,517,080*l.*, or about 25 per cent., that is one-fourth of the whole.

The above statement shows that a large amount of property in the whole is allocated among a considerable number of persons who have incomes of an amount which is commonly termed moderate ; but still sufficient to give them a stake in the country, an interest in the establishment and maintenance of order and good government. There are other statistical documents which seem to lead to the same conclusion ; such as the Savings Bank Returns.

By the last returns the general income of the country is in round numbers sixty-six millions, of which twenty-four millions is derived from customs, eighteen from excise, eight from stamps, seven and a half from property-tax, three from other taxes, and three from the post-office.

Of the whole sum of sixty-six million, twenty-eight and a half million is expended in paying interest on the public debt; two million on the consolidated fund charges, that is, civil list, pensions, salaries, courts of justice, and miscellaneous charges; thirty-four and a half million on what are called Supply services, of which last mentioned sum twelve and a half million is devoted to the army, nine and a half to the navy, eleven and three quarters to the miscellaneous civil services and salaries of revenue departments.

With respect to the division into classes, that subject is perhaps sufficiently elucidated by the extracts already given from the population returns; with respect to the reciprocal relations of those classes, it may be thought that they are not altogether such as seem most conducive to the public weal. There would seem to be less community of feeling between the different grades of society, less intercourse arising from the natural sympathy between the employers and the employed, than would exist in a perfectly wholesome state of social relations. This is probably owing partly to a certain reserve in the national character, which admits very few within the pale of intimacy, and least readily those in the relation of dependents. In these particulars, however, there are probably great differences in different stations

of life and various employments, and it would require much familiarity with all the phases of society to give a true version of the facts, much more to account for them and suggest remedies. One thing, however, is certain, that the gradual progress of education and the benevolent exertions of public-spirited individuals to improve the general condition of the people, have a tendency to break down the barrier which divides different classes.

One cause of the estrangement which sometimes prevails between employers and employed is that jealousy of the rich which possesses the minds of many of the less educated of our operatives, and embitters their relations with those above them in station. Instead of considering their interests as identified with those of their masters, they are prone to look upon the possessors of those funds by the expenditure of which all labour must be supported, as if they were taskmasters whose only object was to exact as much work as possible out of their overstrained sinews for the smallest possible remuneration in return. This mistaken feeling arises partly from an ignorance of the elementary principles of economical science, an ignorance which it will take some time wholly to remove; since it is always more grateful to our feelings to lay blame upon others than to acquiesce in a belief that

calamity is either beyond human control, or that the remedy is to be sought for in some personal sacrifice.

It must be admitted, however, that the conduct of employers does occasionally justify the suspicion that they are not so anxious to promote the welfare of their workmen as they ought to be. Our great capitalists are not all of that class who have been described as opening schools, museums, and libraries, and building lecture-rooms for their workpeople.

The state of belief on the most important subjects is the next head of inquiry. It will be at once admitted, that the influence of religious belief upon the condition of society is far more powerful and more extensively operative than that of any other opinions whatever. It is to this influence therefore that the following remarks will be confined.

This country was among the first which embraced the Reformed religion with eagerness, and it has in later times acted up to its principles with tolerable consistency. During the early times, indeed, of the Reformed Church, the spirit of religious intolerance, so opposed to the true genius of Protestantism, perpetrated many detestable cruelties, as soon as success had supplied the means of persecution. The melancholy annals of religious feuds show a marked tendency in human nature

to retaliate on oppressors as soon as the mastery has been obtained ; at least in those times of less extended civilization, when the bad passions develop themselves, uncontrolled by the wholesome curb of public opinion and free discussion. Still all the revolting barbarities of the reigns of Queen Mary and Queen Elizabeth sink into comparative insignificance when compared with the inhuman proceedings of Philip II. of Spain and the Spanish Inquisition, and the cruelties exercised towards Protestants at different periods in France. We have therefore some cause for self-gratulation in this country ; and yet it is impossible to read that portion of the early history of any country whatever, which treats of religious affairs, without a blush for human nature ; for on occasions where religious feeling is strongly excited, men appear to divest themselves for the time of all tender sympathies, and to become like wild beasts thirsting for rapine and blood.

Ecclesiastical history also exhibits a strong tendency in mankind to adopt those pharisaical opinions which set great store by rites and ceremonies and outward show, the tithes of mint and cummin, and abstruse doctrines of faith, and are comparatively regardless of that duty to God and our neighbour, which is so simply and yet so eloquently enforced by the Great Founder of our faith in many striking passages of Scripture.

The man whose feelings are powerfully subjugated by the gorgeous ceremonials of the Roman Catholic faith, who adores the power of the priesthood, who would lavish vast sums on building chapels rich with every kind of architectural decoration, and in which there is perpetual gloom from the abundance of painted glass in mullioned windows, is not always the same man who visits the fatherless and widows in their affliction. He is not always the same man who looks with a friendly eye on all his fellow-creatures round about him, whispering kind words of sympathy in the season of sorrow, and stretching out a helping and saving hand to those limping children of poverty, who are painfully stumbling over the rugged obstacles in the stony path of life.

The religious condition of this country harmonizes with its moral state: there is much outward decorum, and probably fewer persons live in open disregard of all religious obligations than in former periods of our history. Among evidences of an increased respect for them may be mentioned the almost total disuse of the habit of swearing, which prevailed so much even as late as at the beginning of this century. Many ameliorations in morals may also be in part ascribed to this cause, such as the purification of our stage and of our general literature, and the disposition in male society to abstain from all such conversation as

would be offensive to a female ear. We must also ascribe to the same cause the exertions which have been made to distribute copies of the Scriptures ; the various measures adopted of late years for the purpose of increasing church accommodation and clerical ministrations, more particularly in the densely peopled districts of the kingdom, the extension of missionary labours, and so forth.

In this country toleration has, after a long and bitter struggle, obtained almost a complete victory, and there is also among the people a great capacity for, and a great love of, managing their own affairs. It might be anticipated that in such a nation there would be a considerable amount of dissent from the established national Protestant creed, and this, in fact, is the case ; but some of the sects that have sprung out of the bosom of the Anglican Church so nearly resemble her in their tenets, such as the Wesleyan Methodists for example, that the secession may be viewed rather as establishing a different form of Church government than a different religion.

There can be no doubt that dissent has been productive of great good in this country ; by bringing the spirit of emulation to bear on these subjects, it has wholesomely stimulated the religious zeal of the ministers of all denominations ; and by enlisting in the service of religion the principle of division of labour, it has added millions to the roll

of devout Christians, who, if they had been left to the ministrations of the clergy of the Establishment only, would most assuredly have been overlooked.

The population returns of 1851 supply some valuable information as to the extent to which dissent has spread, and show how far the old religion still lingers among us ; they show also approximately the amount of church accommodation provided by each sect for its adherents.

The returns in reference to religion in England and Wales were procured on the principle of collecting facts relating to, first, the amount of accommodation which has been provided for religious worship by each denomination ; and to, secondly, the number of persons who have availed themselves of such provision. It is stated that, after making the proper deductions for those who are unable to attend divine worship—viz., infants, 3,000,000 in number ; the sick and infirm, 1,000,000 ; those left in charge of children and dwellings, another 3,000,000 ; and those employed in other duties, 500,000 in number—there will be 7,500,000 persons unable to attend. Upon the whole it is estimated that accommodation is required for only fifty-eight per cent. of the actual population of a country. Upon this assumption it has been calculated there will be required 10,398,013 sittings for England and Wales, and

10,212,563 are supposed to have been actually provided, making the proper allowances for localities from whence returns could not be obtained. Moreover, there are 34,467 places of worship.

The returns state one fact, which certainly does not tend to confirm any impression which may be entertained that devotion has made *great* progress lately; they show that 5,288,294 persons able to attend Divine Service neglect to do so; but the statement is principally grounded on the attendance on one particular Sunday, viz. the 30th of March, 1851, and on computations mainly conjectural. It is calculated, however, that on the morning of this day only 4,647,482 attended to occupy 8,498,520 sittings.

The following Table shows the principal religious bodies arranged in the order of their frequency of attendance; the Roman Catholics being omitted, as the greater number of their services prevents comparison. The second column exhibits the proportion per cent. of attendance to sittings:—

Religious Denomination.	Proportion per cent. of Attendance to sittings.
Wesleyan Reformers	45
Particular Baptists	42
Welsh Calvinistic Methodists	41
Primitive ditto.	41
General Baptist New Connexion	41
Moravians	39
Independents	33

Religious Denomination.	Proportion per cent. of Attendance to sittings.
Lady Huntingdon's Connexion	38
Mormons	38
Bible Christians	37
General Baptists	36
Wesleyan Original Connexion	35
Wesleyan New Connexion	34
Catholic and Apostolic Church	34
United Presbyterian ditto	34
Church of England	33
Wesleyan Methodist Association	32
Brethren	32
Presbyterian Church in England	30
Church of Scotland	28
New Church	28
Unitarians	24
Jews	24
Society of Friends	8

The following Table shows the total number of places of worship, and the total number of attendances, including the morning, afternoon, and evening services therein, in reference to each religious denomination. Approximate estimates have been made where the returns were defective :—

Religious Denomination.	Total number of places of Worship.	Total number of Attendances.
PROTESTANT CHURCHES.		
BRITISH.		
Church of England	14,077	5,292,551
Scotch Presbyterians—		
Church of Scotland	18	11,758
United Presbyterian Church ..	66	31,628
Presbyterian Church, England ..	76	37,124
Independents	3,244	1,214,059

CHAP. VI. ATTENDANCE AT DIVINE WORSHIP. 251

Religious Denomination.	Total number of places of Worship.	Total number of Attendances.
Baptists—		
General	93	22,096
Particular	1,947	740,752
Seventh Day	2	83
Scotch	15	1,947
New Connexion, General	182	64,321
Undefined	550	100,991
Society of Friends	371	22,478
Unitarians	229	50,061
Moravians	32	10,874
Wesleyan Methodists—		
Original Connexion	6,579	1,544,528
New do.	297	99,045
Primitive Methodists	2,871	511,195
Bible Christians	482	73,859
W. M. Association	419	94,103
Independent Methodists	20	3,120
Wesleyan Reformers	339	91,503
Calvinistic Methodists—		
Welsh Calvinistic Methodists	828	264,112
Lady Huntingdon's Connexion	109	44,642
Sandemanians	6	756
New Church	50	10,352
Brethren	132	17,592
Isolated Congregations	539	104,675
FOREIGN.		
Lutherans	6	1,416
French Protestants	3	407
Reformed Church of Netherlands	1	70
German Protestant Reformers	1	180
OTHER CHRISTIAN CHURCHES.		
Roman Catholics	570	383,630
Greek Church	3	240
German Catholics	1	700
Italian Reformers	1	20
Catholic and Apostolic Church	32	7,542
Latter-Day Saints (Irvingites)	222	35,626
Jews	53	6,030

The twelve denominations, therefore, which have the greatest number of worshippers are the following :—

Denomination.	Number.
1. The Church of England	5,292,551
2. Wesleyan Methodists, Original Connexion ..	1,544,528
3. Independents	1,214,059
4. Particular Baptists	740,752
5. Primitive Methodists	511,195
6. Roman Catholics	383,630
7. Welsh Calvinistic Methodists	264,112
8. Isolated Congregations	104,675
9. Undefined Baptists	100,991
10. Wesleyan Methodists, New Connexion ..	99,045
11. Wesleyan Methodist Association	94,103
12. Wesleyan Reformers	91,503

Without attempting to give any detailed account of the religious opinions of these various denominations of Christians, it may suffice to mention that the chief differences among Protestants relate to two principal points of faith—the doctrine of Justification by Faith, and that of the Trinity. As to the first, Calvinists contend that repentance and belief cannot, in consequence of man's depravity, arise in any one by his own volition, but are the effect of a special exercise of Divine grace in favour of those who are predestinated to be saved. On the other hand, the Arminians contend that men are able to accept or reject the offer of Divine grace, which is made to all freely.

Apart from the question of Church government, the various sects of Nonconformists are chiefly

distinguished from one another by the extent to which they embrace the Calvinistic doctrines; while the Established Church hovers as it were between the two extremes, and is imagined by some to afford a common ground on which, if not the extremes, at least the moderate men of both parties might reunite.

As to the second point, the nature of the mysterious union called the Trinity, and the question of the extent to which Christ partook of the Divine nature, afford other grounds of dissent, which distinguish the sects of Socinians, Unitarians, and others. It is needless to specify the peculiar tenets of the Roman Catholics, which, having continued with little variation for centuries, must be supposed to be well known. It is believed that time has to a certain extent modified such of their tenets as were little suited to an advanced stage of social progress.

It may be doubtful whether the practices now adopted by religious sects of laying down with elaborate minuteness Confessions of faith and reciting Creeds which embrace points of great complexity and difficulty to finite understandings, and also of considering as excluded from their communion all who entertain contrary opinions on any one of many points, will survive the maturity of society. However this may be, it is sincerely to be hoped that pure religious sentiments will

gradually more and more prevail, and extend their salutary influence to all, controlling the unruly wills and affections of wayward man.

On the *tastes* of the inhabitants of this kingdom, which is the next head to which it is necessary to direct attention, it is only necessary to say, that if the term be confined to their appreciation of works of art and science, it must be admitted that their tastes are yet susceptible of much development, and are very far from having attained that stage which they may be expected hereafter to reach in a more advanced period of society. It would not be fair perhaps to adduce the result of the great Manchester Exhibition of Pictures as a proof of this, when we remember the crowds which flocked to see the Exhibition of 1851 ; for the difficulties and expense of access to the former might alone be thought sufficient to account for its comparative unpopularity with the masses. The annual exhibitions in the metropolis are much frequented ; and there is probably a growing appreciation of the advantages held out to the working classes by the Government Schools of Design. There cannot therefore be a doubt that these institutions will gradually improve the national taste. As to extending the taste for and knowledge of science, suggestions have been already made, which it is unnecessary to repeat.

The subject of *Institutions*, which constitutes

the next division, is far too extensive to be discussed at any length at the conclusion of a chapter devoted to many other topics of great importance in themselves. We live in this country under what is improperly called a limited or constitutional Monarchy, but which has really become by many insensible gradations a Republic, presided over by a President, in whom the dignity is hereditary, and where almost all the substantial power is lodged in a body of above six hundred persons, elected by such of their fellow-citizens as are possessed of certain qualifications defined by the laws. This Constitution has received its due measure of admiration from ourselves and surrounding nations for many years, but it may be permitted to doubt whether our country owes the greatest part of its present prosperity to this cause. With the confusion of cause and effect which takes place in the consideration of all social questions, it may be said that the possession of such a Constitution has *produced* that industry and perseverance, that love of order and respect for the law, that desire of accumulation and general recognition of the rights of person and property, which characterize our noble race; and no doubt this is true to some extent; but it is no less true that some of these qualities helped to produce the Constitution, and have also mainly contributed to bring about that happy result, that prosperity,

which is attributed by some to the Constitution alone. On the whole, there is every reason to believe that the blessings we so justly prize might coexist with a Constitution differing considerably from that under which we have the happiness to live.

Enough has been already said on other peculiarities in British institutions, such as the extent to which local administration prevails, and so forth. On the whole, while there is much that requires amendment, there is also much that should excite feelings of heartfelt gratitude that our lot has been happily cast in a country which occupies deservedly so exalted a position among the other nations of the earth.*

Among the circumstances of that position which have not been taken into consideration are *its foreign and domestic trade and commerce, and its external relations*. The remark which has been already made in reference to institutions will apply

* In the year 1857 our countrymen and countrywomen in India found themselves suddenly opposed to a mutiny of 100,000 fanatical soldiers, in full possession of their arms and of a powerful artillery, and many strongholds and arsenals containing an abundant supply of the munitions of war. They were scattered in small bands over a country of immense extent, many thousand miles removed from the chief source of support, which they received only after a long delay; yet their spirit never quailed, and the mutiny was put down after a glorious struggle, in which were generally displayed, both by men and women, acts of heroic devotion and sublime courage which show how rich is the English character in the noblest qualities.

also with augmented force to these subjects. They constitute much too large a field to enter upon; suffice it to say that our trade and commerce, both internal and foreign, have, *in spite* of mischievous legislation, increased since the beginning of the present century in a manner which may well excite our amazement. Thus, *e. g.*, cotton, that great staple of our manufactures, imported for home consumption, increased from 56 millions of pounds in 1801 to 428 millions in 1846;* the official value of goods exported increased from 24,500,000*l.* in 1801 to 132,250,000*l.* in 1846;† the value of imports from 25,500,000*l.* in 1811 to 76,000,000*l.* in 1846.‡ The ships employed in conducting commerce between Britain and foreign countries increased from 14,066 ships of 1,895,530 tons in 1821 to 33,821 ships of 6,101,015 tons in 1846.§

On the subject of the external relations with our dependencies, nothing need be added to that which has been above stated. Till the breaking out of the Indian mutiny they never were in so satisfactory condition as at the present time.

The late events in India have deeply interested a large proportion of our countrymen, and directed

* Now (1859) more than 1034 millions.

† Now (1859) 116,614,331*l.* is the total *declared* value of all articles exported.

‡ Now (1859) this value is about 126 millions.

§ Now (1859) 42,834 ships of 9,936,705 tons.

much of the attention of the public to that curious and remarkable specimen of an ancient civilization, renovated by the introduction of the European element. It is unnecessary to make any apology therefore for subjoining the following particulars of the Indian revenue from a late Parliamentary Return.

An Account showing the Net amount of Revenue received in the several Presidencies and subordinate Governments of India in the year ended 30th April, 1857, under the heads of Land, Opium, Salt, Customs, and Miscellaneous, and the Total Gross and Net Revenue.

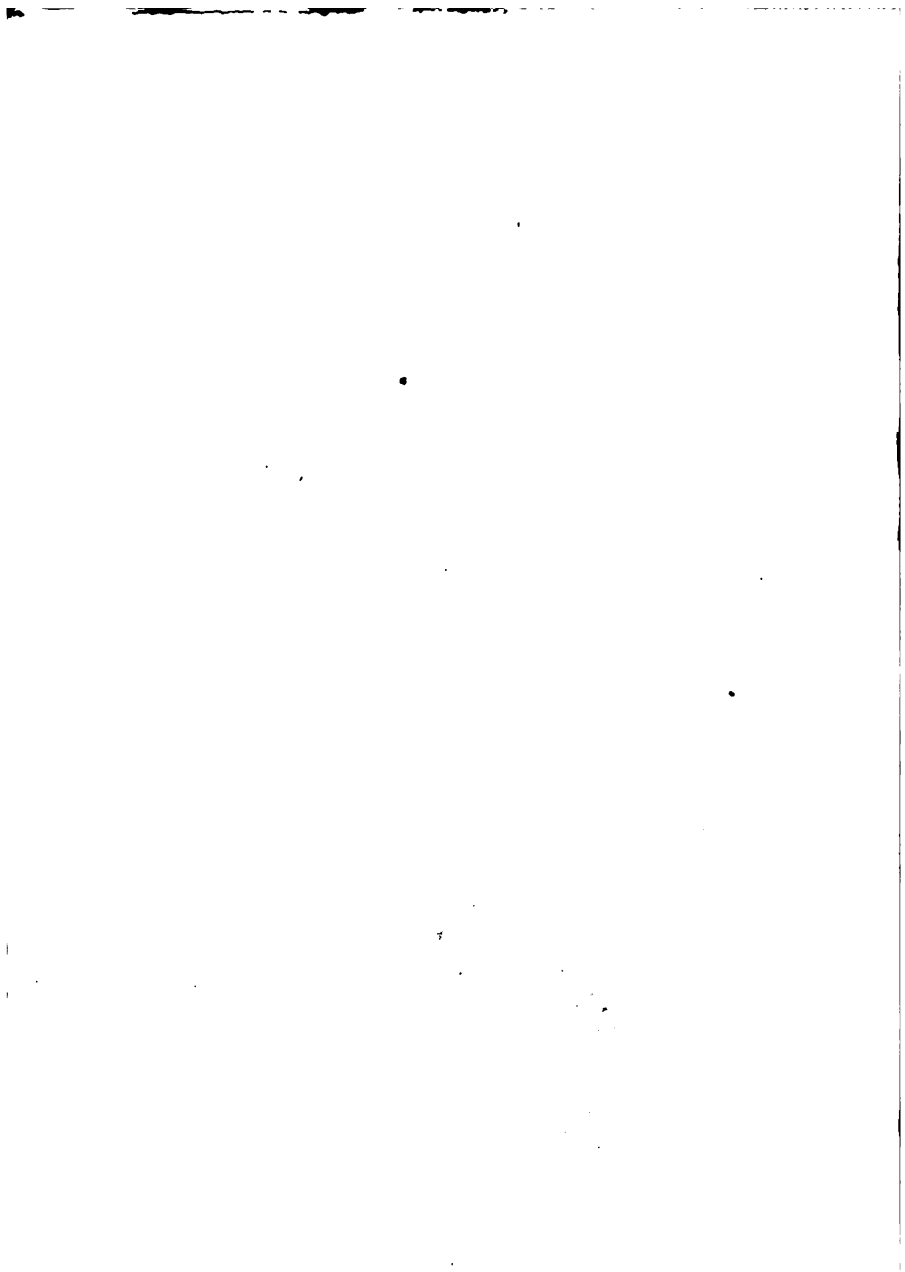
	Land and Excise.	Opium.	Salt.	Customs.	Miscellaneous.	Total.	
						Gross.	Net.
Bengal	£ 5,052,910	£ 2,701,475	£ 1,588,541	£ 567,468	£ 1,857,718	£ 14,078,315	£ 11,768,102
North-Western Provinces ..	4,680,846	..	548,401	88,596	649,671	6,591,361	5,917,514
Punjab	841,743	..	165,047	..	247,832	1,461,585	1,254,622
Madras	3,664,038	..	466,878	124,946	763,894	5,767,050	5,019,756
Bombay	2,594,771	1,159,676	224,586	294,237	503,434	5,405,100	4,776,704
	16,834,308	3,861,151	2,993,453	1,025,237	4,022,549	33,303,391	28,736,698

As to foreign relations, we may say with confidence that the country occupies a high position. Though the last war was not signalized by the acquirement of vast domains obtained from a rival nation by strife and bloodshed, and though it was accompanied by some untoward circumstances during its progress, yet it was undertaken from no unworthy or ambitious motive, and it was prosecuted to a successful issue. Moreover it was distinguished by events which displayed to advantage the bravery and exemplary conduct of our forces both naval and military, and the prodigious elasticity of the resources of the country; enabling it to recover most rapidly from losses which it had unavoidably incurred. Would that it might be said with truth that our foreign relations are now placed upon a firm basis, and one likely to endure! predictions on such subjects are always hazardous and seldom realized.

This short treatise has now been brought to a conclusion. What has been written has little claim to be represented as new or original; it may be described rather as a short sketch of the doctrines of the most philosophical writers on the rationale of government and legislation, with some notes on kindred subjects. Still it may possibly be found to contain some suggestive matter, which may be useful to young men who have either just entered on the arduous and responsible functions

of Legislation in either House of Parliament, or have it in contemplation so to do. It is quite certain that many a conscientious man, sincerely desirous of fulfilling to the utmost all the duties of any vocation in which his birth, talents, or active energies may have placed him, has put to himself the question, on entering Parliament, "Now what can I do to render myself more fit to perform the high and responsible functions that are about to devolve upon me?" If it should be thought that the foregoing pages furnish no satisfactory reply to such a question, asked in the sincerity of an ingenuous and earnest heart, they may perhaps be deemed to furnish some clue to the sources from which a reply to it must be sought.

THE END.



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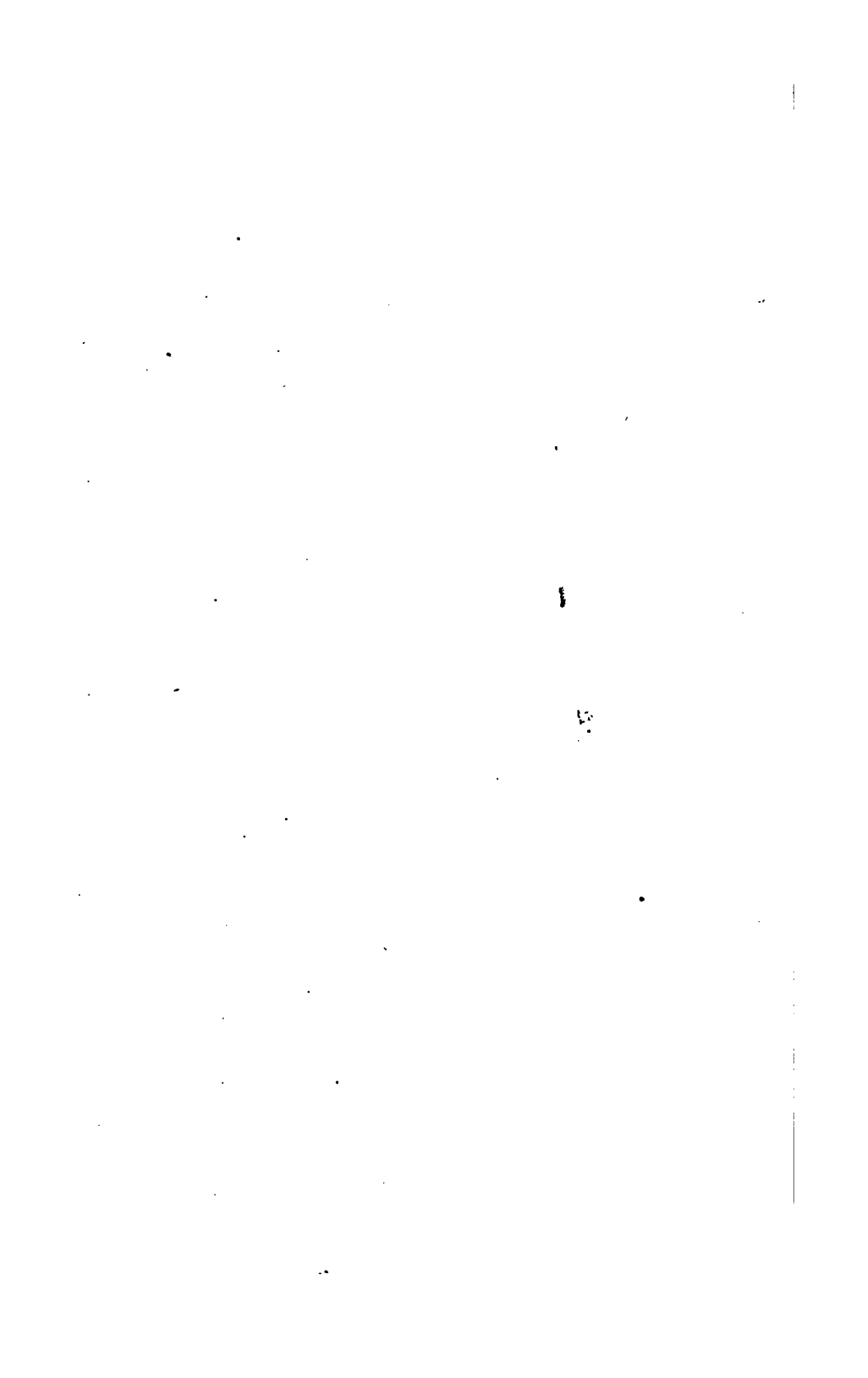
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